# FEDERAL REGISTER

Vol. 80 Tuesday,

No. 221 November 17, 2015

Pages 71681–71926

OFFICE OF THE FEDERAL REGISTER

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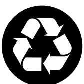

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# Rules and Regulations

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

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## CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

### 2 CFR Part 2205

### 45 CFR Parts 1235, 2510, 2520, 2541, 2543, 2551, 2552, and 2553

**RIN 3045–AA61**

## Implementation of Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Final rule.

**SUMMARY:** The Corporation for National and Community Service (CNCS) published an interim final rule adopting and implementing the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) on December 19, 2014. CNCS publishes this final rule to adopt and implement the interim final rule without change.

**DATES:** This rule is effective December 17, 2015.

**FOR FURTHER INFORMATION CONTACT:** Amy Borgstrom, Associate Director for Policy, at the Corporation for National and Community Service, 1201 New York Avenue NW., Washington, DC 20525, phone 202–606–6930. The TDD/TTY number is 800–833–3722.

**SUPPLEMENTARY INFORMATION:** On December 19, 2014 (79 FR 75871), the Office of Management and Budget issued a joint-agency interim final rule that implemented the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance). Through that interim final rule, CNCS adopted and implemented the Uniform Guidance and made specific exceptions to the rule. These exceptions are published in 2 CFR part 2205. Additionally, CNCS removed 45 CFR parts 2541 and 2543, which were superseded by the Uniform Guidance and made other conforming amendments to its regulations. The interim final rule was effective on December 26, 2014, and the public comment period closed on February 17, 2015.

CNCS did not receive any comments addressing its regulations. Accordingly, and without change, CNCS adopts and implements the Uniform Guidance as published on December 19, 2014.

**Regulatory Procedures**

*Executive Order 12866*

CNCS has determined that the rule is not an ''economically significant'' rule within the meaning of E.O. 12866 because it is not likely to result in: (1) An annual effect on the economy of $100 million or more, or an adverse and material effect on a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal government or communities; (2) the creation of a serious inconsistency or interference with an action taken or planned by another agency; (3) a material alteration in the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) the raising of novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866.

*Regulatory Flexibility Act*

As required by the Regulatory Flexibility Act of 1980 (5 U.S.C. 605 (b)), CNCS certifies that this rule will not have a significant economic impact on a substantial number of small entities. Therefore, CNCS has not performed the initial regulatory flexibility analysis that is required under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) for major rules that are expected to have such results.

*Unfunded Mandates*

For purposes of Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, as well as Executive Order 12875, this regulatory action does not contain any Federal mandate that may result in increased expenditures in either Federal, State, local, or tribal governments in the aggregate, or impose an annual burden exceeding $100 million on the private sector.

*Paperwork Reduction Act*

This rule contains no new information collections subject to the requirements of the Paperwork Reduction Act (44 U.S.C. 3506).

*Executive Order 13132, Federalism*

Executive Order 13132, Federalism, prohibits an agency from publishing any rule that has Federalism implications if the rule imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. The rule does not have any Federalism implications, as described above.

Accordingly, under the authority of 42 U.S.C. 12651c(c), CNCS adopts the interim rule adding 2 CFR part 2205 and amending 45 CFR parts 1235, 2510, 2520, 2541, 2543, 2551, 2552, and 2553, which published at 79 FR 75871 on December 19, 2014, as final, without change.

Dated: November 6, 2015.

**Jeremy Joseph,**

*General Counsel.*

[FR Doc. 2015–28733 Filed 11–16–15; 8:45 am]

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## FEDERAL RESERVE SYSTEM

### 12 CFR Part 204

**[Regulation D; Docket No. R–1524]**

**RIN 7100 AE–38**

## Reserve Requirements of Depository Institutions

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

**ACTION:** Final rule.

**SUMMARY:** The Board is amending Regulation D, Reserve Requirements of Depository Institutions, to reflect the annual indexing of the reserve requirement exemption amount and the low reserve tranche for 2016. The Regulation D amendments set the amount of total reservable liabilities of each depository institution that is subject to a zero percent reserve

requirement in 2016 at $15.2 million (from $14.5 million in 2015). This amount is known as the reserve requirement exemption amount. The Regulation D amendments also set the amount of net transaction accounts at each depository institution (over the reserve requirement exemption amount) that is subject to a three percent reserve requirement in 2016 at $110.2 million (from $103.6 million in 2015). This amount is known as the low reserve tranche. The adjustments to both of these amounts are derived using statutory formulas specified in the Federal Reserve Act.

The Board is also announcing changes in two other amounts, the nonexempt deposit cutoff level and the reduced reporting limit, that are used to determine the frequency at which depository institutions must submit deposit reports.

**DATES:** *Effective date:* December 17, 2015.

*Compliance dates:* The new low reserve tranche and reserve requirement exemption amount will apply to the fourteen-day reserve maintenance period that begins January 21, 2016. For depository institutions that report deposit data weekly, this maintenance period corresponds to the fourteen-day computation period that begins December 22, 2015. For depository institutions that report deposit data quarterly, this maintenance period corresponds to the seven-day computation period that begins December 15, 2015. The new values of the nonexempt deposit cutoff level, the reserve requirement exemption amount, and the reduced reporting limit will be used to determine the frequency at which a depository institution submits deposit reports effective in either June or September 2016.

**FOR FURTHER INFORMATION CONTACT:** Clinton N. Chen, Attorney (202/452–3952), Legal Division, or Ezra A. Kidane, Financial Analyst (202/973–6161), Division of Monetary Affairs; for users of Telecommunications Device for the Deaf (TDD) only, contact (202/263–4869); Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551.

**SUPPLEMENTARY INFORMATION:** Section 19(b)(2) of the Federal Reserve Act (12 U.S.C. 461(b)(2)) requires each depository institution to maintain reserves against its transaction accounts and nonpersonal time deposits, as prescribed by Board regulations, for the purpose of implementing monetary policy. Section 11(a)(2) of the Federal Reserve Act (12 U.S.C. 248(a)(2)) authorizes the Board to require reports of liabilities and assets from depository institutions to enable the Board to conduct monetary policy. The Board's actions with respect to each of these provisions are discussed in turn below.

**1. Reserve Requirements**

Pursuant to section 19(b) of the Federal Reserve Act (Act), transaction account balances maintained at each depository institution are subject to reserve requirement ratios of zero, three, or ten percent. Section 19(b)(11)(A) of the Act (12 U.S.C. 461(b)(11)(A)) provides that a zero percent reserve requirement shall apply at each depository institution to total reservable liabilities that do not exceed a certain amount, known as the reserve requirement exemption amount. Section 19(b)(11)(B) provides that, before December 31 of each year, the Board shall issue a regulation adjusting the reserve requirement exemption amount for the next calendar year if total reservable liabilities held at all depository institutions increase from one year to the next. No adjustment is made to the reserve requirement exemption amount if total reservable liabilities held at all depository institutions should decrease during the applicable time period. The Act requires the percentage increase in the reserve requirement exemption amount to be 80 percent of the increase in total reservable liabilities of all depository institutions over the one-year period that ends on the June 30 prior to the adjustment.

Total reservable liabilities of all depository institutions increased by 6.4 percent, from $7,026 billion to $7,476 billion between June 30, 2014, and June 30, 2015. Accordingly, the Board is amending Regulation D to set the reserve requirement exemption amount for 2016 at $15.2 million, an increase of $0.7 million from its level in 2015.[1]

Pursuant to Section 19(b)(2) of the Act (12 U.S.C. 461(b)(2)), transaction account balances maintained at each depository institution over the reserve requirement exemption amount and up to a certain amount, known as the low reserve tranche, are subject to a three percent reserve requirement. Transaction account balances over the low reserve tranche are subject to a ten percent reserve requirement. Section 19(b)(2) also provides that, before December 31 of each year, the Board shall issue a regulation adjusting the low reserve tranche for the next calendar year. The Act requires the adjustment in the low reserve tranche to be 80 percent of the percentage increase or decrease in total transaction accounts of all depository institutions over the one-year period that ends on the June 30 prior to the adjustment.

Net transaction accounts of all depository institutions increased 8.0 percent, from $1,904 billion to $2,056 billion between June 30, 2014 and June 30, 2015. Accordingly, the Board is amending Regulation D to increase the low reserve tranche for net transaction accounts by $6.6 million, from $103.6 million for 2015 to $110.2 million for 2016.

The new low reserve tranche and reserve requirement exemption amount will be effective for all depository institutions for the fourteen-day reserve maintenance period beginning Thursday, January 21, 2016. For depository institutions that report deposit data weekly, this maintenance period corresponds to the fourteen-day computation period that begins December 22, 2015. For depository institutions that report deposit data quarterly, this maintenance period corresponds to the seven-day computation period that begins December 15, 2015.

**2. Deposit Reports**

Section 11(b)(2) of the Federal Reserve Act authorizes the Board to require depository institutions to file reports of their liabilities and assets as the Board may determine to be necessary or desirable to enable it to discharge its responsibility to monitor and control the monetary and credit aggregates. The Board screens depository institutions each year and assigns them to one of four deposit reporting panels (weekly reporters, quarterly reporters, annual reporters, or nonreporters). The panel assignment for annual reporters is effective in June of the screening year; the panel assignment for weekly and quarterly reporters is effective in September of the screening year.

In order to ease reporting burden, the Board permits smaller depository institutions to submit deposit reports less frequently than larger depository institutions. The Board permits depository institutions with net transaction accounts above the reserve requirement exemption amount but total transaction accounts, savings deposits, and small time deposits below a specified level (the ''nonexempt deposit cutoff'') to report deposit data quarterly. Depository institutions with net transaction accounts above the reserve requirement exemption amount and

[1] Consistent with Board practice, the low reserve tranche and reserve requirement exemption amounts have been rounded to the nearest $0.1 million.

with total transaction accounts, savings deposits, and small time deposits greater than or equal to the nonexempt deposit cutoff are required to report deposit data weekly. The Board requires certain large depository institutions to report weekly regardless of the level of their net transaction accounts if the depository institution's total transaction accounts, savings deposits, and small time deposits exceeds or is equal to a specified level (the ''reduced reporting limit''). The nonexempt deposit cutoff level and the reduced reporting limit are adjusted annually, by an amount equal to 80 percent of the increase, if any, in total transaction accounts, savings deposits, and small time deposits of all depository institutions over the one-year period that ends on the June 30 prior to the adjustment.

From June 30, 2014 to June 30, 2015, total transaction accounts, savings deposits, and small time deposits at all depository institutions increased 5.3 percent, from $10,256 billion to $10,798 billion. Accordingly, the Board is increasing the nonexempt deposit cutoff level by $16.9 million to $416.9 million in 2016 (from $400.0 million for 2015). The Board is also increasing the reduced reporting limit by $77 million to $1.901 billion for 2016 (from $1.824 billion in 2015).[2]

Beginning in 2016, the boundaries of the four deposit reporting panels will be defined as follows. Those depository institutions with net transaction accounts over $15.2 million (the reserve requirement exemption amount) or with total transaction accounts, savings deposits, and small time deposits greater than or equal to $1.901 billion (the reduced reporting limit) are subject to detailed reporting, and must file a Report of Transaction Accounts, Other Deposits and Vault Cash (FR 2900 report) either weekly or quarterly. Of this group, those with total transaction accounts, savings deposits, and small time deposits greater than or equal to $416.9 million (the nonexempt deposit cutoff level) are required to file the FR 2900 report each week, while those with total transaction accounts, savings deposits, and small time deposits less than $416.9 million are required to file the FR 2900 report each quarter. Those depository institutions with net transaction accounts less than or equal to $15.2 million (the reserve requirement exemption amount) and with total transaction accounts, savings deposits, and small time deposits less than $1.901 billion (the reduced reporting limit) are eligible for reduced reporting, and must either file a deposit report annually or not at all. Of this group, those with total deposits greater than $15.2 million (but with total transaction accounts, savings deposits, and small time deposits less than $1.901 billion) are required to file the Annual Report of Deposits and Reservable Liabilities (FR 2910a) report annually, while those with total deposits less than or equal to $15.2 million are not required to file a deposit report. A depository institution that adjusts reported values on its FR 2910a report in order to qualify for reduced reporting will be shifted to an FR 2900 reporting panel.

**3. Notice and Regulatory Flexibility Act**

The provisions of 5 U.S.C. 553(b) relating to notice of proposed rulemaking have not been followed in connection with the adoption of these amendments. The amendments involve expected, ministerial adjustments prescribed by statute and by the Board's policy concerning reporting practices. The adjustments in the reserve requirement exemption amount, the low reserve tranche, the nonexempt deposit cutoff level, and the reduced reporting limit serve to reduce regulatory burdens on depository institutions. Accordingly, the Board finds good cause for determining, and so determines, that notice in accordance with 5 U.S.C. 553(b) is unnecessary. Consequently, the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601, do not apply to these amendments.

**List of Subjects in 12 CFR Part 204**

Banks, Banking, Reporting and recordkeeping requirements.

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

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

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

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

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

**§ 204.4 Computation of required reserves.**

* * * * *

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

| Reservable liability | Reserve requirement |
|---|---|
| Net Transaction Accounts: | |
| $0 to reserve requirement exemption amount ($15.2 million) | 0 percent of amount. |
| Over reserve requirement exemption amount ($15.2 million) and up to low reserve tranche ($110.2 million). | 3 percent of amount. |
| Over low reserve tranche ($110.2 million) | $2,850,000 plus 10 percent of amount over $110.2 million. |
| Nonpersonal time deposits | 0 percent. |
| Eurocurrency liabilities | 0 percent. |

[2] Consistent with Board practice, the nonexempt deposit cutoff level has been rounded to the nearest $0.1 million, and the reduced reporting limit has been rounded to the nearest $1 million.

By order of the Board of Governors of the Federal Reserve System, acting through the Director of the Division of Monetary Affairs under delegated authority, November 12, 2015.

**Robert deV. Frierson,**

*Secretary of the Board.*

[FR Doc. 2015–29336 Filed 11–16–15; 8:45 am]

BILLING CODE 6210–01–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2015–0929; Directorate Identifier 2014–NM–218–AD; Amendment 39–18323; AD 2015–23–07]**

**RIN 2120–AA64**

## Airworthiness Directives; Bombardier, Inc. Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc. Model BD–100–1A10 (Challenger 300) airplanes. This AD was prompted by multiple reports of chafing found on an electrical wiring harness in the aft equipment bay, caused by contact between the wiring harness and a neighboring hydraulic line. This AD requires an inspection, repair if necessary, and modification of the wiring harness installation to ensure that the wiring harness routing is correct and a minimum clearance between the wire and the hydraulic line is maintained. We are issuing this AD to detect and correct chafing on an electrical wiring harness, which could cause an electrical short circuit or lead to a malfunction of the flight control system, the engine indication system, or the hydraulic power control system; and adversely affect the continued safe operation and landing of the airplane.

**DATES:** This AD becomes effective December 22, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 22, 2015.

**ADDRESSES:** You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2015-0929* or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone: 514–855–5000; fax: 514–855–7401; email: *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0929.

**FOR FURTHER INFORMATION CONTACT:** Assata Dessaline, Aerospace Engineer, Avionics and Service Branch, ANE–172, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone: 516–228–7301; fax: 516–794–5531.

**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 certain Bombardier, Inc. Model BD–100–1A10 (Challenger 300) airplanes. The NPRM published in the **Federal Register** on May 8, 2015 (80 FR 26490).

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2014–32, dated September 8, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc. Model BD–100–1A10 (Challenger 300) airplanes. The MCAI states:

> There have been multiple in-service reports of chafing found on an electrical wiring harness in the aft equipment bay. An investigation determined that the chafing was attributed to contact between the wiring harness and a neighboring hydraulic line. This chafing could cause an electrical short circuit or lead to a malfunction of the flight control system, the engine indication system, or the hydraulic power control system; which could adversely affect the continued safe operation and landing of the aeroplane.
>
> This [Canadian] AD mandates the inspection [general visual inspection], rectification as required [repair of damage (including wear and chafing)], and modification of the wiring harness installation to ensure the correct wiring routing and a minimum clearance between the wire and the hydraulic line is maintained.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2015-0929-0002.*

### Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (80 FR 26490, May 8, 2015) or on the determination of the cost to the public.

### Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting this AD 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 (80 FR 26490, May 8, 2015) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (80 FR 26490, May 8, 2015).

### Related Service Information Under 1 CFR Part 51

Bombardier, Inc. has issued Service Bulletin 100–24–24, dated June 6, 2014. The service information describes procedures for an inspection, repair if necessary, and modification of the wiring harness installation to prevent contact with the hydraulic line. 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 of this AD.

### Costs of Compliance

We estimate that this AD affects 107 airplanes of U.S. registry.

We also estimate that it will take about 4 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $64 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be $43,228, or $404 per product.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this AD. We have no way of determining the number of aircraft that might need these actions.

According to the manufacturer, 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 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.

## Regulatory Findings

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;

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.

## Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2015-0929;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone: 800–647–5527) is in the ADDRESSES section.

## 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):

**2015–23–07 Bombardier, Inc.:** Amendment 39–18323. Docket No. FAA–2015–0929; Directorate Identifier 2014–NM–218–AD.

### (a) Effective Date

This AD becomes effective December 22, 2015.

### (b) Affected ADs

None.

### (c) Applicability

This AD applies to Bombardier, Inc. Model BD–100–1A10 (Challenger 300) airplanes, certificated in any category, having serial numbers 20003 through 20382 inclusive, 20384, and 20386.

### (d) Subject

Air Transport Association (ATA) of America Code 24, Electrical Power.

### (e) Reason

This AD was prompted by multiple reports of chafing found on an electrical wiring harness in the aft equipment bay, caused by contact between the wiring harness and a neighboring hydraulic line. We are issuing this AD to detect and correct chafing on an electrical wiring harness, which could cause an electrical short circuit or lead to a malfunction of the flight control system, the engine indication system, or the hydraulic power control system; which could adversely affect the continued safe operation and landing of the airplane.

### (f) Compliance

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

### (g) Inspection, Repair, and Preventive Modification

Within 36 months after the effective date of this AD, do the actions required by paragraphs (g)(1) and (g)(2) of this AD.

(1) Do a one-time general visual inspection to detect damage (including wear and chafing) of the wiring harness, in accordance with the Accomplishment Instructions of Bombardier, Inc. Service Bulletin 100–24–24, dated June 6, 2014. Repair any damage before further flight, in accordance with the Accomplishment Instructions of Bombardier, Inc. Service Bulletin 100–24–24, dated June 6, 2014; except, where Bombardier, Inc. Service Bulletin 100–24–24, dated June 6, 2014, specifies to contact Bombardier for repair instructions, repair using a method approved by the Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO).

(2) Modify the wiring harness routing, in accordance with the Accomplishment Instructions of Bombardier, Inc. Service Bulletin 100–24–24, dated June 6, 2014.

### (h) Definition of General Visual Inspection

For the purposes of this AD, a general visual inspection is a visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to ensure visual access to all surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.

### (i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO, ANE–170, 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 ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone: 516–228–7300; fax: 516–794–5531. 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. The AMOC approval letter must specifically reference this AD.

(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, New York ACO, ANE–170, FAA; or TCCA; or Bombardier, Inc.'s TCCA DAO. If approved by the DAO, the approval must include the DAO-authorized signature.

### (j) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2014–32, dated September 8, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2015-0929-0002.*

**(k) Material Incorporated by Reference**

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

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

(i) Bombardier, Inc. Service Bulletin 100–24–24, dated June 6, 2014.

(ii) Reserved.

(3) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone: 514–855–5000; fax: 514–855–7401; email: *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.*

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(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 Renton, Washington, on October 30, 2015.

**Michael Kaszycki,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2015–28822 Filed 11–16–15; 8:45 am]

**BILLING CODE 4910–13–P**

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## FEDERAL TRADE COMMISSION

### 16 CFR Parts 500 and 502

### RIN 3084–AB33

### Rules, Regulations, Statements of General Policy or Interpretation and Exemptions Under the Fair Packaging and Labeling Act

**AGENCY:** Federal Trade Commission (''FTC'' or ''Commission'').

**ACTION:** Final rule.

**SUMMARY:** The Commission amends the rules and regulations promulgated under the Fair Packaging and Labeling Act (''Rules'') to: Modernize the place-of-business listing requirement; incorporate a more comprehensive metric chart; address the use of exponents with customary inch/pound measurements; delete outdated prohibitions on retail price sales representations; and acknowledge the role of the weights-and-measures laws of individual states.

**DATES:** This rule is effective on December 17, 2015. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 17, 2015.

**ADDRESSES:** Relevant portions of the proceeding, including this document, are available at the Commission's Web site, *www.ftc.gov.*

**FOR FURTHER INFORMATION CONTACT:** Megan E. Gray, Attorney, (202) 326–3408, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW., Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:**

## I. Introduction

Congress enacted the Fair Packaging and Labeling Act, 15 U.S.C. 1451 *et seq.,* (''FPLA'' or ''Act'') in 1966 to enable consumers to obtain accurate package quantity information to facilitate value comparisons and prevent unfair or deceptive packaging and labeling of ''consumer commodities.'' [1] Pursuant to the FPLA, the Commission promulgated the Rules, which generally concern products consumed during household use. However, several categories of these products are exempt from FTC regulations under the FPLA.[2] Moreover, the FTC has excluded certain others from the Rules.[3]

Section 1453 of the Act directs the Commission to issue regulations requiring that all ''consumer commodities'' be labeled to disclose: (a) The identity of the commodity (*e.g.,* detergent, sponges), which must appear on the principal display panel of the commodity in conspicuous type and position so that identity is easy to read and understand; [4] (b) the name and place of business of the product's manufacturer, packer, or distributor; [5] and (c) the net quantity of contents in terms of weight, measure, or numerical count, with such disclosure's placement and content in accordance with the Rules.[6] The Rules detail how units of weight or mass and measure must be stated, and require use of both U.S. (*e.g.,* pounds, feet, and gallons) and metric measures.[7] The Rules also require net quantity disclosures for packages containing more than one product or unit, including: (a) ''multi-unit packages''; [8] (b) ''variety packages''; [9] and (c) ''combination packages.'' [10]

In addition, the Act grants the FTC authority to issue rules to prevent consumer deception and facilitate value comparisons.[11] The FTC has used this authority to address three types of representations: ''cents-off,'' [12] ''introductory offer,'' [13] and ''economy size.'' [14]

As part of its ongoing regulatory review program, the Commission published an Advance Notice of Proposed Rulemaking (''ANPR'') in March 2014 seeking comment on the economic impact of, and the continuing need for, the Rules; the benefits of the

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[1] Consumer commodities are any food, device, or cosmetic, and any other article, product, or commodity that is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which usually is consumed or expended in the course of such consumption or use. 15 U.S.C. 1459(a). The Food and Drug Administration (''FDA'') administers the FPLA with respect to food, drugs, cosmetics, and medical devices. 15 U.S.C. 1454(a); 15 U.S.C. 1456(a).

[2] 15 U.S.C. 1459(a)(1–5) (excluding, among other products, specified categories of meat, poultry, tobacco, insecticide, fungicide, drug, alcohol, and seed products).

[3] 16 CFR 503.2, 503.5. Many products outside the scope of the FPLA and the Rules nevertheless fall within the purview of individual state laws. 15 U.S.C. 1461. *See also* National Institute of Standards and Technology Handbook 130, Uniform Laws and Regulations in the areas of legal metrology and engine fuel quality (2015 ed.) (compilation of state and federal laws and regulations pertaining to product labeling and packaging).

[4] 16 CFR 500.4.

[5] 16 CFR 500.5.

[6] 16 CFR 500.6(b). The Office of Weights and Measures of the National Institute of Standards and Technology, U.S. Department of Commerce, is authorized to promote, to the greatest practical extent, uniformity in state and federal regulation of the labeling of consumer commodities. 15 U.S.C. 1458(a)(2).

[7] Congress amended the FPLA in 1992 to require use of metric measurements, in addition to customary inch/pound measures. Pub. L. 102–245 (February 14, 1992); Pub. L. 102–329 (August 3, 1992). In 1994, the FTC modified its regulations accordingly. 59 FR 1872 (Jan. 12, 1994).

[8] 16 CFR 500.27.

[9] 16 CFR 500.28.

[10] 16 CFR 500.29.

[11] 15 U.S.C. 1454(c). This discretionary authority enables the FTC to address four situations: (1) Setting standards for characterizing package sizes to supplement the net quantity statement (*e.g.,* establishing a uniform size for a single sheet of toilet paper); (2) regulating packaging that claims a product price is lower than its customary retail price; (3) requiring labels to use common names or listing ingredients in order of decreasing prominence; and (4) preventing nonfunctional slack-fill. 15 U.S.C. 1454(c).

[12] A cents-off representation is one in which ''cents-off'' or a similar term is used to indicate that the consumer commodity is being offered for sale at a price lower than the ordinary and customary retail price. 16 CFR 502.100.

[13] An introductory offer is one in which ''introductory offer'' or a similar phrase is used to indicate that the consumer commodity is being offered for sale at a price lower than the ordinary and customary retail price. 16 CFR 502.101. The Rules prohibit introductory offers in a trade area for a duration in excess of six months. 16 CFR 502.101(b)(3).

[14] An economy size representation is one in which ''economy size'' or similar phrase is used to indicate that the consumer commodity has a retail sale price advantage due to the size of that package or the quantity of its contents. 16 CFR 502.102.

Rules to consumers; and any burdens the Rules place on businesses.[15]

In response, the Commission received fifteen comments. Based on these comments, the Commission issued a Notice of Proposed Rulemaking (''NPRM'') on February 2, 2015, proposing several amendments to modernize the place-of-business listing requirement, incorporate a more comprehensive metric chart, address the use of exponents with customary inch/pound measurements, delete prohibitions on certain retail price sale representations, and acknowledge the role of weights-and-measures laws of individual states.[16]

The Commission received nine comments in response to the NPRM, one from a nonprofit association representing officials and consumers affected by the Rules and eight from individuals.[17] The nonprofit association approved of the Commission's proposals.[18] One individual approved of the Commission's proposal to modernize the place-of-business listing requirement and acknowledge the role of weights-and measures of individual states; he also suggested the Commission amend Section 500.5(b) to delete the Rules' ''actual corporate name'' requirement, as well as amend the Rules to acknowledge that FDA labeling rules could be relevant to an entity's FPLA compliance and that the FDA has not finalized its proposal to permit metric measurements.[19] One individual approved of the Commission's proposal to modernize the place-of-business listing requirement; she did not address the Commission's other proposals.[20] Six individuals discussed extraneous topics not material to this rulemaking.[21]

## II. Procedures for Promulgating Regulations Under FPLA

Commission Rule 1.26 sets forth the procedures for promulgation of rules under authority other than section 18(a)(1)(B) of the FTC Act; it governs these FPLA amendments.[22] The effective date of any regulations issued under the FPLA will not be prior to 30 days after publication in the **Federal Register**.[23]

## III. Amendments

Based on its consideration of the record, the Commission amends the Rules as explained below.

### *A. Modernize the Place-of-Business Listing Requirement*

Currently, the Rules require a label to conspicuously state the name and place of business of the manufacturer, packer, or distributor and further specify that the place of business statement contain the street address, city, state, and ZIP code. The street address, however, may be omitted if it is listed in a current city or telephone directory.[24] The Commission proposed revising this exception to permit a business to omit the street address if it is listed in any readily accessible, well-known, widely published, and publicly available resource, including but not limited to a printed directory, electronic database, or Web site. The inclusion of ''any readily accessible, widely published, and publicly available resource'' in the exception provides flexibility and is intended to encompass new technologies that meet these requirements.

All the comments addressing this proposal supported it.[25] One individual suggested that the Commission delete the requirement that certain business entities use their ''actual corporate name'' (as opposed to their fictitious or doing-business-as name). However, he acknowledged that the requirement did not burden business and he did not demonstrate any benefit associated with his suggested amendment.[26] Accordingly, the Commission adopts its proposed amendment without change.

### *B. Incorporate a More Comprehensive Metric Chart*

Section 500.19(a) currently contains an incomplete metric conversion chart that fails to list possible, albeit uncommon, conversion factors that a packager might use, such as weight expressed in grain, or length expressed in rods. The Commission proposed to correct this omission by deleting the current chart and incorporating by reference the complete metric conversion chart published in National Institute of Standards and Technology (NIST) Handbook 133, Checking the Net Contents of Packaged Goods (2015 ed., Exhibit E, pgs. 135–157).[27] Members of the public can access the Handbook online at NIST's Web site, *www.NIST.gov*.

The only comment addressing this proposal approved its adoption.[28] Accordingly, the Commission adopts this proposed amendment without change for the reasons explained in the NPRM.

### *C. Address the Use of Exponents With Customary Inch/Pound Measurements*

In the current rule (Section 500.22), exponents are not listed for customary inch/pound measurements, but are included in the metric examples listed in Section 500.23(b) (*e.g.,* cubic centimeter—$cm^3$). Because exponents are not listed in the customary inch/pound measurements, affected businesses might think they are not permitted, although they are common in the marketplace and historically sanctioned by the Office of Weights and Measures of the National Institute of Standards and Technology, U.S. Department of Commerce, which is authorized to promote uniformity in labeling regulations.[29] Therefore, the Commission proposed to clarify the Rules to expressly permit exponents with customary inch/pound measurements (*e.g.,* cubic inches—$in^3$).

The only comment addressing this proposal approved its adoption.[30] Accordingly, the Commission adopts this proposed amendment without change.

### *D. Delete Prohibitions on Certain Retail Price Sales Representations*

The Commission proposed to eliminate sections addressing when and how a packager or labeler represents a commodity to be ''cents off,'' an ''introductory offer,'' or ''economy size.'' [31] The Commission originally

[15] 79 FR 15272 (March 19, 2014).

[16] 80 FR 5491 (February 2, 2015).

[17] The Commission posted the comments at *https://www.ftc.gov/policy/public-comments/initiative-599*. Each comment has a number correlating to the date of submission. This notice cites comments using the last name of the individual submitter or the name of the organization, followed by that number.

[18] Packaging and Labeling Subcommittee of the National Conference on Weights and Measures (''NCWM'') (1).

[19] Schindler (3).

[20] Lynn (5).

[21] Willey (2), Signer (4), Nagpal (6), Gordon (7), Vita (8), Anonymous (9). For example, Gordon (7) commented on labels for genetically modified foods.

[22] 16 CFR 1.26(f).

[23] 16 CFR 1.26(f).

[24] 16 CFR 500.5(a)–(e). The Act itself requires the label to include the place of business, but does not specify to what level of detail. 15 U.S.C. 1453(a)(1).

[25] NCWM (1), Schindler (3), Lynn (5).

[26] Schindler (3).

[27] The NPRM proposed to incorporate a metric conversion chart from NIST Handbook 130, but the Final Rule incorporates the metric conversion chart from NIST Handbook 133. NIST Handbook 133's metric conversion chart is consistent with the table provided in NIST Handbook 130, but provides a more comprehensive listing of metric conversion factors. This revision does not change the obligations of entities subject to the Rules. Therefore, pursuant to the Administrative Procedure Act, the Commission finds ''good cause'' for foregoing additional public comment because this change is merely ministerial and further public comment is ''unnecessary.'' 5 U.S.C. 553(b)(3)(B).

[28] NCWM (1).

[29] NCWM (1).

[30] NCWM (1).

[31] 15 U.S.C. 1454(c)(2).

promulgated these provisions to curtail certain price representations that were commonly used in a deceptive manner during the 1960s and 1970s. However, these representations are now rarely seen in the modern marketplace. Indeed, they have been absent for some time.[32] Should they re-appear, the Commission has other tools at its disposal to ensure they are not used deceptively.

The only comment addressing this proposal approved its adoption.[33] Accordingly, the Commission adopts this proposed amendment without change.

*E. Acknowledge the Role of Weights-and-Measures Laws of Individual States*

Many products outside the Commission's FPLA purview fall within the purview of weights-and-measures laws of individual states; amending the Rules to acknowledge the state role would aid compliance efforts by alerting businesses that state laws may apply. Therefore, the Commission proposed to amend the Rules to state ''[m]any products exempted through proceedings under section 5(b) of the Act and section 500.3(e) of this chapter or excluded under part 503 of this chapter nonetheless fall within the purview of the weights-and-measures laws of individual states.''

The two comments addressing this proposal approved its adoption.[34] One, however, favored further clarification to indicate that FDA also has a role in FPLA regulation, but did not provide any indication that entities were unfamiliar with this fact. Accordingly, the Commission adopts this proposed amendment without change.

## IV. Paperwork Reduction Act

The Rules contain various existing information collection requirements for which the Commission has obtained OMB clearance under the Paperwork Reduction Act (''PRA'').[35] Because the amendments do not trigger additional recordkeeping, disclosure, or reporting requirements, there is no incremental burden under the PRA. *See* 44 U.S.C. 3501–3521. None of the comments disputed the PRA analysis in the NPRM.

## V. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA'')[36] requires the Commission to conduct an initial and final analysis of the anticipated economic impact of the amendments on small entities.[37] The purpose of a regulatory flexibility analysis is to ensure the agency considers the impacts on small entities and examines regulatory alternatives that could achieve the regulatory purpose while minimizing burdens on small entities. Section 605 of the RFA[38] provides that such an analysis is not required if the agency head certifies that the regulatory action will not have a significant economic impact on a substantial number of small entities.

The Commission believes the amendments will not have a significant economic impact on small entities, although they may affect a substantial number of small businesses. The amendments expand labeling options to accommodate the rise of online media, remove unnecessary price statement prohibitions, or are technical in nature.

In the Commission's view, the amendments will not have a significant or disproportionate impact on the costs small entities incur in manufacturing, distributing, or selling consumer commodities. Indeed, the Rule revisions provide increased flexibility for companies complying with the Rules. Therefore, the Commission certifies that amending the Rules will not have a significant economic impact on a substantial number of small businesses.

Although the Commission certifies under the RFA that the amendments will not have a significant impact on a substantial number of small entities, the Commission nonetheless has determined it is appropriate to publish a final regulatory flexibility analysis to ensure the impact of the amendments on small entities is fully addressed. Therefore, the Commission prepared the following analysis:

*A. Need for and Objective of the Amendments*

The objective of the amendments is to clarify and update the Rules in accordance with marketplace practices. The Act authorizes the Commission to implement its requirements through the issuance of rules. The amendments clarify and update the Rules, and provide covered entities with additional labeling options without imposing significant new burdens or additional costs.

*B. Significant Issues Raised in Public Comments*

In the NPRM's initial regulatory flexibility analysis, the Commission concluded that the proposed amendments would not have a significant or disproportionate economic impact (including compliance costs) on small entities that produce consumer commodities other than those commodities falling within the authority of other agencies or otherwise outside the Act's or Rules' scope. None of the comments disputed the initial regulatory flexibility analysis. The Commission did not receive any comments from the Small Business Administration.

*C. Small Entities to Which the Amendments Will Apply*

The amendments cover every company in the economy that produces consumer commodities other than those commodities falling within the authority of other agencies or otherwise outside the Act's or Rules' scope. Based on available information, it is not feasible for the Commission to estimate the number of entities within this class of industry that are also small companies within the meaning of the Regulatory Flexibility Act.[39] A substantial number of these entities likely qualify as small businesses. Nevertheless, the Commission estimates that the amendments will not have a significant impact on small businesses because the amendments do not impose any significant new obligations. The Commission sought, but did not receive, comment with regard to the estimated number or nature of small business entities, if any, for which the amendments would have a significant impact.

*D. Projected Reporting, Recordkeeping, and Other Compliance Requirements, Including Classes of Covered Small Entities and Professional Skills Needed To Comply*

As explained earlier in this document, the amendments expand labeling options to accommodate the rise of online media, remove unnecessary price statement prohibitions, or are technical in nature. The small entities potentially covered by these amendments will include all such entities subject to the Rules. The professional skills necessary for compliance with the Rules as modified by the amendments will include office and administrative support supervisors to determine label content and clerical personnel to draft and obtain labels and keep records.

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[32] In 1997, the U.S. Food and Drug Administration revoked similar regulations for ''cents off'' and economy size representations, on the grounds that such representations were no longer used in the marketplace. 62 FR 39439 (1997).

[33] NCWM (1).

[34] NCWM (1), Schindler (3).

[35] 44 U.S.C. 3501 *et seq.* On April 6, 2015, OMB granted clearance through April 30, 2018, for these requirements and the associated PRA burden estimates. The OMB control number is 3084–0110.

[36] 5 U.S.C. 601–612.

[37] The Commission previously conducted an RFA analysis of the Rules. 59 FR 1862 (Jan. 12, 1994).

[38] 5 U.S.C. 605.

[39] 5 U.S.C. 601(3).

*E. Significant Alternatives to the Amendments*

The Commission has not proposed any specific small entity exemption or other significant alternatives, because the amendments expand labeling options to accommodate the rise of online media, remove unnecessary price statement prohibitions, or are technical in nature. In addition, these changes provide new flexibilities for small entities by, for example, allowing regulated entities to omit a business address from a label if the address is readily available in an online directory or other Web site. Under these limited circumstances, the Commission does not believe a special exemption for small entities or significant compliance alternatives are necessary or appropriate to minimize the compliance burden, if any, on small entities while achieving the intended purposes of the proposed amendments. Nonetheless, the Commission sought, but did not receive, comments on the need, if any, for alternative compliance methods to reduce the economic impact of the Rules on small entities.

None of the comments addressed the Regulatory Flexibility Act analysis in the NPRM.

## VI. Incorporation by Reference

Consistent with 1 CFR part 51, the Commission is incorporating the complete metric conversion chart published in the National Institute of Standards and Technology (NIST) Handbook 133, Checking the Contents of Packaged Goods (2015 ed., Exhibit E, pgs. 135–157), as described in Section III.B above. The metric conversion chart provides a complete and up-to-date list of metric conversion factors for packagers.

The metric conversion chart is reasonably available to interested parties. Members of the public can access the metric conversion chart online at NIST's Web site, *NIST.gov*.

## List of Subjects in 16 CFR Parts 500 and 502

Fair Packaging and Labeling Act, Incorporation by reference, Labeling, Packaging and containers, Trade practices.

Under 15 U.S.C. 1454–1455 and as discussed in the preamble, the Federal Trade Commission amends title 16 of the Code of Federal Regulations by amending parts 500 and 502 as follows:

## PART 500—REGULATIONS UNDER SECTION 4 OF THE FAIR PACKAGING AND LABELING ACT

■ 1. The authority citation for part 500 continues to read as follows:

**Authority:** 15 U.S.C. 1453, 1454, 1455.

■ 2. In § 500.3, revise paragraph (d) to read as follows:

### § 500.3 Prohibited acts, coverage, general labeling requirements, exemption procedures.

* * * * *

(d) Each packaged or labeled consumer commodity, unless it has been exempted through proceedings under section 5(b) of the Act, shall bear a label specifying the identity of the commodity; the name and place of business of the manufacturer, packer, or distributor; the net quantity of contents; and the net quantity per serving, use or application, where there is a label representation as to the number of servings, uses, or applications obtainable from the commodity. Many products exempted through proceedings under section 5(b) of the Act and section 500.3(e) of this chapter or excluded under part 503 of this chapter nonetheless fall within the purview of the weights-and-measures laws of the individual states.

* * * * *

■ 3. Revise § 500.5(c) to read as follows:

### § 500.5 Name and place of business of manufacturer, packer or distributor.

* * * * *

(c) The statement of the place of business shall include the street address, city, state, and zip code; however, the street address may be omitted if it is listed in a readily accessible, widely published, and publicly available resource, including but not limited to a printed directory, electronic database, or Web site.

* * * * *

■ 4. In § 500.19, revise paragraph (a) to read as follows:

### § 500.19 Conversion of SI metric quantities to inch/pound quantities and inch/pound quantities to SI metric quantities.

(a) For calculating the conversion of SI metric quantities to and from customary inch/pound quantities, the conversion chart published in the following handbook shall be employed: National Institute of Standards and Technology (NIST) Handbook 133, Checking the Net Contents of Packaged Goods, Appendix E—General Tables of Units of Measurements, 2015 Edition, adopted November 2014. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy of NIST Handbook 133 at the National Institute of Standards and Technology's Web site, *http://www.nist.gov/pml/wmd/pubs/hb133.cfm*. You may inspect a copy at FTC Library, (202) 326–2395, Federal Trade Commission, Room H–630, 600 Pennsylvania Avenue NW., Washington, DC 20580, or 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*.

* * * * *

■ 5. Revise § 500.22 to read as follows:

### § 500.22 Abbreviations.

The following abbreviations and none other may be employed in the required net quantity declaration:

Inch—in.

Feet or foot—ft.

Fluid—fl.

Liquid—liq.

Ounce—oz.

Gallon—gal.

Pint—pt.

Pound—lb.

Quart—qt.

Square—sq.

Weight—wt.

Yard—yd.

Avoirdupois—avdp.

Cubic—cu.

**Note:** Periods and plural forms shall be optional. Exponents are permitted.

## PART 502—REGULATIONS UNDER SECTION 5(C) OF THE FAIR PACKAGING AND LABELING ACT

■ 6. The authority citation for part 502 is revised to read as follows:

**Authority:** 15 U.S.C. 1454, 1455.

### §§ 502.100, 502.101, and 502.102 [Removed and Reserved]

■ 7. Remove and reserve §§ 502.100, 500.101, and 502.102.

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 2015–28918 Filed 11–16–15; 8:45 am]

BILLING CODE 6750–01–P

**DEPARTMENT OF HOMELAND SECURITY**

**U.S. Customs and Border Protection**

**19 CFR Parts 103, 161, and 175**

**[CBP Dec. 15–16]**

**RIN 1651–AB05**

## Freedom of Information Act Procedures

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the U.S. Customs and Border Protection (''CBP'') Freedom of Information Act (''FOIA'') regulations. Due to the transfer of CBP from the Department of the Treasury to the Department of Homeland Security (''DHS''), and the subsequent promulgation of DHS FOIA regulations which provide that the DHS FOIA regulations generally apply to all DHS components, most of the CBP FOIA regulations have been functionally superseded. This document sets forth that, with the exception of a regulation pertaining to the treatment of confidential commercial information, CBP will apply the DHS FOIA and Privacy Act regulations for purposes of administering the FOIA. This final rule removes outdated regulations, aligns CBP's regulatory procedures for processing FOIA requests with those of DHS, thereby creating a consistent standard among the DHS components, and brings CBP within compliance of the FOIA guidelines developed by OMB.

**DATES:** *Effective:* November 17, 2015.

**FOR FURTHER INFORMATION CONTACT:** Shari Suzuki, Chief, FOIA Appeals, Policy & Litigation Branch, Office of International Trade, (202) 325–0121.

**SUPPLEMENTARY INFORMATION:**

### Background

The Freedom of Information Act (''FOIA'') (5 U.S.C. 552) provides for the disclosure of agency records and information to the public unless the records and information are exempted from disclosure. U.S. Customs and Border Protection (''CBP'') regulations specifically covering the production and disclosure of records under the FOIA are set forth in part 103 of title 19 of the Code of Federal Regulations (19 CFR part 103) and consist of sections 103.1–103.13 (19 CFR 103.1–103.13).

Prior to March 1, 2003, the United States Customs Service (''Customs'') was a component of the Department of the Treasury. On November 25, 2002, the President signed the Homeland Security Act of 2002, 6 U.S.C. 101 *et seq.,* Public Law 107–296, (the ''HSA''), establishing the Department of Homeland Security (''DHS''). Pursuant to section 403(1) of the HSA, Customs was transferred from Treasury to DHS effective March 1, 2003, and renamed as the Bureau of Customs and Border Protection (now U.S. Customs and Border Protection or CBP).

DHS published FOIA and Privacy Act regulations in the **Federal Register** (68 FR 4056) as an interim rule on January 27, 2003. The DHS regulations specifically covering FOIA-related matters are set forth in subpart A of part 5 of title 6 of the Code of Federal Regulations (6 CFR part 5, subpart A) and consist of sections 5.1–5.12 (6 CFR 5.1–5.12).

Section 5.1(a)(2) (6 CFR 5.1(a)(2)) states that, except to the extent a DHS component adopts separate guidance under the FOIA, the provisions of the DHS FOIA regulations apply to each component of the Department. However, under these regulations DHS components may issue their own guidance pursuant to approval by DHS. As discussed in more detail below, CBP published in the **Federal Register** (71 FR 54197) a final rule on September 14, 2006, relating to the treatment of confidential commercial information. *See also* interim final rule issued on August 11, 2003 at 68 FR 47453. No other provisions of the CBP FOIA regulations have been amended since CBP became a part of DHS.

For additional resources, please see the CBP FOIA page online at *http://www.cbp.gov/site-policy-notices/foia.*

### Need for Correction

Due to the promulgation of DHS FOIA regulations which provide that the DHS FOIA regulations generally apply to all DHS components except to the extent that a DHS component adopts separate guidance, most of the CBP FOIA regulations have been functionally superseded. The current CBP regulation, section 103.0, directs the public to the Treasury FOIA regulations found at 31 CFR part 1 and instructs that for any inconsistency between 19 CFR part 103 and the Treasury FOIA regulations, the Treasury FOIA regulations control. The existing CBP regulations are now obsolete and retaining inconsistent regulations causes confusion for those seeking to file a FOIA request. As a result, CBP is amending sections 103.0 through 103.3, removing and reserving sections 103.4 through 103.13 of Subpart A of Part 103, and directing readers to the DHS FOIA regulations. This will align CBP's regulatory procedures for processing FOIA requests and appeals with DHS procedures.

The DHS FOIA regulations reflect many Congressional amendments to the FOIA, for which conforming changes had not been made in the CBP FOIA regulations. The DHS FOIA regulations also reflect OMB's guidelines established in the Uniform Freedom of Information Act Fee Schedule and Guidelines publication. In addition, DHS recently proposed additional updates to its FOIA regulations to update and streamline the language of several procedural provisions, and to incorporate changes brought about by the amendments to the FOIA under the OPEN Government Act of 2007, among other changes (80 FR 45101, July 29, 2015).

While in practice, CBP currently follows the FOIA, as amended, and the rules and procedures set forth in the DHS FOIA regulations, CBP hopes to eliminate confusion for the public making FOIA requests, as well as CBP personnel handling FOIA requests by removing conflicting and sometimes outdated CBP FOIA regulations and directing readers to the DHS FOIA regulations, as appropriate.

### Discussion of Amendments

This document makes amendments to the scope section of part 103 (19 CFR 103.0), sections 103.1 through 103.3 of subpart A (19 CFR 103.1–103.3), and by removing sections 103.4 through 103.13 of subpart A of 19 CFR part 103 (19 CFR 103.4–103.13). Specifically, this document amends section 103.0 by removing references to the FOIA subject matters that are no longer discussed within Part 103 because they are now addressed in the DHS regulations and amends section 103.1 to account for CBP's move to virtual reading rooms (19 CFR 103.1). In addition, section 103.2 is revised to explain in paragraph (a) that CBP processes FOIA requests pursuant to the DHS FOIA regulations set forth in 6 CFR part 5, subpart A (19 CFR 103.2(a)), unless CBP provides a particular exception. Paragraph (b) of section 103.2 sets forth the exception that CBP will not apply the DHS FOIA regulation pertaining to the treatment of business information contained in 6 CFR 5.8 (19 CFR 103.2(b)). Rather, as explained below, CBP will continue to apply its current regulation in section 103.35 (19 CFR 103.35) which governs the treatment of confidential commercial information. A corresponding amendment is made to section 103.35 (19 CFR 103.35). Lastly, section 103.3 is revised to explain how CBP processes Privacy Act requests pursuant to the DHS Privacy Act

regulations set forth in 6 CFR part 5, subpart B (6 CFR 5).

**Exceptions to DHS Regulations**

On September 14, 2006, CBP published a final rule in the **Federal Register** (71 FR 54197) governing the disclosure procedures that CBP follows when commercial information is provided to CBP by a business submitter. The rule finalized an interim rule in section 103.35 (19 CFR 103.35) to subpart C, published in the **Federal Register** on August 11, 2003 (68 FR 47453), in order to clearly set forth CBP's policy governing the disclosure of confidential commercial information that is provided to CBP by a business submitter.

As opposed to section 103.35 in title 19 CFR, the DHS FOIA regulation controlling the treatment of business information in 6 CFR 5.8 contains an affirmative requirement that a business submitter must identify information as privileged or confidential in order to be withheld from disclosure. In this regard, 6 CFR 5.8 specifically states that a submitter of business information must use good-faith efforts to designate, by appropriate markings, either at the time of submission or at a reasonable time thereafter, any portions of their submission that they consider to be exempt from disclosure under the FOIA.

Section 5.8 of title 6 CFR also states that, before business information is released, notice will be provided to submitters whenever a FOIA request is made that seeks the business information that has been designated in good faith as confidential or when the agency has a reason to believe that the information may be protected from disclosure. When notice is provided by the agency, the submitter is required to submit a detailed written statement specifying the grounds for withholding any portion of the information and show why the information is a trade secret or commercial or financial information that is privileged or confidential.

CBP has determined that 19 CFR 103.35 remains an effective regulation. In addition, CBP believes that this regulation should be retained in order to assure the public that CBP's established policy governing the treatment of confidential commercial information subject to FOIA requests will not change as a result of the amendments in this document. *See* 68 FR 47753 (August 11, 2003). For example, CBP will not require business submitters to designate information as protected from disclosure as privileged or confidential in order for CBP to withhold the information in response to a FOIA request. Therefore, CBP will continue to apply 19 CFR 103.35 in order to process confidential information under the FOIA. This action is fully consistent with DHS's recent proposed rule on FOIA, which explicitly proposed to incorporate the provisions of 19 CFR 103.35 into DHS's title 6 FOIA regulation. *See* 80 FR at 45103.

**Other Changes**

CBP has also determined that paragraph (b) of section 103.13 (19 CFR 103.13(b)), which provides that identifying data will not be eliminated from petitions by domestic interested parties, is more appropriately placed within 19 CFR part 175. Part 175 sets forth the regulations for petitions by domestic interested parties. As existing 19 CFR 103.13(b) is specific to petitions by domestic interested parties, this relocation will provide the public involved with such petitions with all relevant regulations in one location. Accordingly, this document moves the provision currently found in paragraph (b) of section 103.13 (19 CFR 103.13(b)) to the end of section 175.21(b) (19 CFR 175.21(b)).

This document also amends sections 103.31a, 103.32, 103.34, 161.15, and 175.21 (19 CFR 103.31a, 103.32, 103.34, 161.15, and 175.21) in order to remove references in these sections to the CBP FOIA regulations that are being removed and to update the references accordingly. In sections 103.31a and 103.32 (19 CFR 103.31a and 103.32), references to CBP FOIA regulations are removed and replaced with references to the DHS FOIA provisions at 6 CFR 5.3. In addition, the introductory paragraph to section 103.31a (19 CFR 103.31a) is revised to replace a reference to section 103.12(d), which is removed by this document, with text from current section 103.12(d) (19 CFR 103.12) providing that trade secrets and commercial or financial information are *per se* exempt from disclosure.

In sections 103.34, 161.15, and 175.21 (19 CFR 104.34, 161.15, and 175.21), the reference to CBP FOIA regulations are replaced with references to the FOIA statute at 5 U.S.C. 552. In addition, section 161.15 (19 CFR 161.15) is revised to replace a reference to section 103.12(g)(4) (19 CFR 103.12), which is removed by this document, with a reference to 5 U.S.C. 552(b)(7)(D) and text from current section 103.12(g)(4). Section 161.15 (19 CFR 161.15) is also being revised to replace a reference to 103.12(i) (19 CFR 103.12), which is removed by this document, with text from current section 103.12(i) which tracks the language found in 5 U.S.C. 552(a)(7)(C)(2). Lastly, this document makes non-substantive amendments to these regulations to reflect the nomenclature changes effected by the reorganization of the U.S. Customs Service under DHS in 2003 and to remove the word consignee from section 175.21 to be consistent with the statutory amendments to 19 U.S.C. 1484(a)(2)(B).

**Executive Orders 13563 and 12866**

Executive Orders 13563 and 12866 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 (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule is not a ''significant regulatory action,'' under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget has not reviewed this regulation.

Following the creation of DHS in 2003, DHS promulgated the Freedom of Information Act and Privacy Act Procedures interim final rule set forth in 6 CFR part 5. For consistent and appropriate administration, CBP generally began applying the DHS FOIA procedures after their publication. However, the CBP FOIA procedures remained in the Code of Federal Regulations, sometimes causing confusion about their use among the public and agency personnel. Unlike the CBP FOIA regulations outlined in 19 CFR 103 subpart A, the DHS FOIA procedures are up-to-date and conform to FOIA guidelines established by OMB. This rule will serve to remove obsolete provisions of CBP's FOIA regulations and will establish uniform FOIA administration procedures among DHS and its component, CBP, in the Code of Federal Regulations. This rule will not affect CBP's current application of FOIA procedures as CBP already adheres to DHS FOIA regulations. Instead, the rule will provide greater clarity of CBP's application of FOIA procedures. Therefore, this rule will not have an economic impact on CBP or the public.

**Inapplicability of Notice and Delayed Effective Date**

Pursuant to 5 U.S.C. 553(b)(B), CBP has determined that it would be unnecessary and contrary to the public interest to delay publication of this rule in final form pending an opportunity for public comment because the existing regulations are obsolete and maintaining

inconsistent regulations causes confusion for the public. In addition, pursuant to 5 U.S.C. 553(d)(3), CBP has determined that there is good cause for this final rule to become effective immediately upon publication. CBP currently follows the DHS FOIA regulations as a matter of law and policy. The amendments contained in this document merely align CBP's regulatory procedures for processing FOIA requests and appeals with DHS procedures and bring CBP in compliance with OMB's guidelines established in the Uniform Freedom of Information Act Fee Schedule and Guidelines publication.

**Regulatory Flexibility Act**

The Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996, requires agencies to assess the impact of regulations on small entities. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people). The Regulatory Flexibility Act applies only to rules subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA) or any other law (5 U.S.C. 553(a)(2)). Because this rule is not subject to such notice and comment rulemaking requirements, the provisions of the Regulatory Flexibility Act do not apply. However, as discussed above in the ''Executive Orders 13563 and 12866'' section, this rule will not have an economic impact on the public because it merely clarifies CBP's current adherence to DHS FOIA procedures rather than existing, outdated CBP FOIA regulations.

**Signing Authority**

This document is being issued in accordance with 19 CFR 0.2(a), which provides that the authority of the Secretary of the Treasury with respect to CBP regulations that are not related to customs revenue functions was transferred to the Secretary of Homeland Security pursuant to section 403(1) of the Homeland Security Act of 2002. Accordingly, this final rule to amend such regulations may be signed by the Secretary of Homeland Security (or his delegate).

**List of Subjects**

*19 CFR Part 103*

Administrative practice and procedure, Computer technology, Confidential business information, Customs duties and inspection, Freedom of information, Privacy, Reporting and recordkeeping requirements.

*19 CFR Part 161*

Customs duties and inspection, Exports, Imports, Law enforcement.

*19 CFR Part 175*

Administrative practice and procedure, Customs duties and inspection, Reporting and recordkeeping requirements.

**Amendments to the CBP Regulations**

For the reasons discussed in the preamble, parts 103, 161, and 175 of title 19 of the Code of Federal Regulations (19 CFR parts 103, 161, and 175) are amended as set forth below.

## PART 103—AVAILABILITY OF INFORMATION

■ 1. The general authority citation for part 103 continues to read as follows:

**Authority:** 5 U.S.C. 301; 552, 552a; 19 U.S.C. 66, 1624; 31 U.S.C. 9701.

* * * * *

■ 2. Section 103.0 is revised to read as follows:

**§ 103.0 Scope.**

This part governs the production/disclosure of agency-maintained documents/information requested pursuant to the Freedom of Information Act (FOIA), as amended (5 U.S.C. 552), the Privacy Act of 1974, as amended (5 U.S.C. 552a), and/or under other statutory or regulatory provisions and/or as requested through administrative and/or legal processes. In this respect, this part contains regulations on production or disclosure in federal, state, local, and foreign proceedings and includes specific information pertaining to the procedures to be followed when producing or disclosing documents or information under various circumstances. In addition, this part contains regulations on other information subject to restricted access. As information obtained by CBP is derived from myriad sources, persons seeking information should consult with the appropriate field officer before invoking the formal procedures set forth in this part. Except for 19 CFR 103.35, the regulations in this part supplement the regulations of the Department of Homeland Security regarding public access to records found at 6 CFR part 5. For purposes of this part, the CBP Office of the Chief Counsel is considered to be a part of CBP.

## Subpart A—Production of Documents/Disclosure of Information Under the FOIA

■ 3. Section 103.1 is revised to read as follows:

**§ 103.1 Public Reading Room.**

CBP maintains a virtual public reading room at *http://foiarr.cbp.gov/* where the material required to be made available under 5 U.S.C. 552(a) and this part may be inspected and copied.

■ 4. Section 103.2 is revised to read as follows:

**§ 103.2 Department of Homeland Security Freedom of Information Act Procedures.**

(a) *Department of Homeland Security FOIA Regulations.* In order to process requests for documents/information and appeals under the Freedom of Information Act (FOIA), as amended (5 U.S.C. 552), except as provided in paragraph (b) of this section, CBP applies the Department of Homeland Security FOIA regulations in 6 CFR part 5, subpart A.

(b) *Exception.* Notwithstanding section 5.8 of Title 6, CBP retains its own policy on the treatment of confidential commercial information provided in § 103.35.

■ 5. Section 103.3 is revised to read as follows:

**§ 103.3 Department of Homeland Security Privacy Act Procedures.**

*Department of Homeland Security Privacy Act Regulations.* In order to process access requests for documents/information and appeals under the Privacy Act of 1974, as amended (5 U.S.C. 552a), CBP applies the Department of Homeland Security Privacy Act regulations in 6 CFR part 5, subpart B.

**§§ 103.4 through 103.13 [Removed and Reserved]**

■ 6. Remove and reserve §§ 103.4 through 103.13.

■ 7. In § 103.31a, revise the introductory text to read as follows:

**§ 103.31a Advance electronic information for air, truck, and rail cargo; Importer Security Filing Information for vessel cargo.**

The following types of advance electronic information are *per se* exempt from disclosure as either trade secrets or privileged or confidential commercial or financial information, unless CBP receives a specific request for such records pursuant to 6 CFR 5.3, and the

owner of the information expressly agrees in writing to its release:

* * * * *

### § 103.32 [Amended]

■ 8. In § 103.32:

■ a. In the parenthetical clause in the first sentence, add the words ''or CBP Decisions'' after the words ''Treasury Decisions'';

■ b. Remove the word ''Customs'' each place it appears and add in its place the term ''CBP'';

■ c. Remove the word ''shall'' each place it appears and add in its place the word ''must''; and

■ d. Remove the reference in the last sentence to ''§ 103.5'' and add in its place ''6 CFR 5.3''.

■ 9. In § 103.34:

■ a. The section heading is revised;

■ b. Paragraph (a) is amended by:

■ i. Removing the word ''Customs'' each place it appears and adding in its place the term ''CBP'';

■ ii. Removing the phrase ''the U.S. Customs Service'' and adding in its place the term ''CBP''; and

■ c. Paragraph (b) is revised.

The revisions read as follows:

### § 103.34 Sanctions for improper actions by CBP officers or employees.

* * * * *

(b) Under 5 U.S.C. 552(a)(4)(F), the Special Counsel, Merit Systems Protection Board, has authority, upon the issuance of a written finding by a court that a CBP officer or employee who was primarily responsible for withholding a record may have acted arbitrarily or capriciously, to initiate a proceeding to determine whether disciplinary action is warranted against that officer or employee. Such proceedings are governed by Merit Systems Protection Board regulations found at Part 1201 of Title 5 of the Code of Federal Regulations.

■ 10. In § 103.35, the first sentence of paragraph (a) is revised to read as follows:

### § 103.35 Confidential commercial information; exempt.

(a) * * * Notwithstanding 6 CFR 5.8, for purposes of this section, ''commercial information'' is defined as trade secret, commercial, or financial information obtained from a person. * * *

* * * * *

## PART 161—GENERAL ENFORCEMENT PROVISIONS

■ 11. The general authority citation for part 161 continues to read and a specific authority citation for section 161.15 is added to read as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1600, 1619, 1624.

* * * * *

Section 161.15 also issued under 5 U.S.C. 552.

■ 12. Section 161.15 is revised to read as follows:

### § 161.15 Confidentiality for informant.

The name and address of the informant must be kept confidential. No files or information will be revealed which might aid in the unauthorized identification of an informant. Pursuant to 5 U.S.C. 552(b)(7)(D), specific informant records that are exempt from disclosure are those that could reasonably be expected to disclose the identity of a confidential source, including a state, local, or foreign authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source. Informant records maintained by CBP under an informant's name or personal identifier that are requested by a third party according to the informant's name or personal identifier are not subject to the disclosure requirements of 5 U.S.C. 552(a), unless the informant's status as an informant has been officially confirmed.

## PART 175—PETITIONS BY DOMESTIC INTERESTED PARTIES

■ 13. The general authority citation for part 175 continues, and a specific authority citation for section 175.21 is added, to read as follows:

**Authority:** R.S. 251, as amended, secs. 516, 624, 46 Stat. 735, as amended, 759; 19 U.S.C. 66, 1516, 1624, unless otherwise noted.

* * * * *

Section 175.21 also issued under 5 U.S.C. 552.

■ 14. In § 175.21, paragraph (b) is revised to read as follows:

### § 175.21 Notice of filing of petition, inspection of petition, and inspection of documents and papers.

* * * * *

(b) *Inspection of petition; inspection of documents and papers.* The petition filed by a domestic interested party will be made available for inspection by interested parties in accordance with the provisions of 5 U.S.C. 552(a). However, neither a petitioner nor other interested parties will in any case be permitted to inspect documents or papers of the importer of record which are exempted from disclosure by 5 U.S.C. 552(b)(4). Identifying data is not to be deleted from petitions filed by American manufacturers, producers, and wholesalers pursuant to section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516).

Dated: November 9, 2015.

**R. Gil Kerlikowske,**

*Commissioner, U.S. Customs and Border Protection.*

[FR Doc. 2015–29183 Filed 11–16–15; 8:45 am]

BILLING CODE 9111–14–P

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## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 165

**[Docket No. USCG–2015–0989]**

**RIN 1625–AA00**

## Safety Zone; Unexploded Ordnance Detonation; Passage Key, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone within a 2000-ft radius of an ordnance detonation area. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by the unexploded ordnance detonation. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port St. Petersburg.

**DATES:** This rule is effective without actual notice from November 17, 2015 through December 18, 2015. For the purposes of enforcement, actual notice will be used from November 6, 2015 through November 17, 2015.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2015–0989 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 Boatswain's Mate First Class Tyrone J. Stafford, Sector St. Petersburg Prevention Department, Coast Guard; telephone (813) 228–2191 ext. 8307, email *Tyrone.j.stafford@uscg.mil.*

## 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 the Coast Guard was not aware of the ordinance removal operation or details needed to implement a safety zone in time to publish an NPRM and to receive public comments. It is impracticable and contrary to the public interest to publish an NPRM because we must establish this safety zone by November 06, 2015 to ensure the protection of personnel, vessels, and the marine environment from potential hazards created by the unexploded ordnance detonation.

We are issuing this temporary final rule and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register** for the same reasons discussed above. The need for this safety zone has been deemed necessary as the detonation of unexploded ordnance will occur during the dates specified in this document.

The purpose of this event is to clear any unexploded ordnance from a former gunnery training site. The Passage Key Air-to Ground Gunnery Range area was formerly used for arial training during World War II. The U.S. Army Corps of Engineers USACE will search for and destroy any ordinance found in the vicinity of Passage Key with controlled explosives. The safety zone will incorporate a 2000-ft buffer area outside of the investigation and detonation area. The U.S. USACE will be responsible for the detonation of ordnance within the specified area.

## III. Legal Authority and Need for Rule

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and limited access areas: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Department of Homeland Security Delegation No. 0170.1.

The purpose of this rule is to protect the personnel, vessels, and the marine environment in the navigable waters within the safety zone.

## IV. Discussion of the Rule

This rule establishes a safety zone from November 06, 2015 through December 18, 2015. The safety zone will include waters within a 2000-ft radius of the unexploded ordnance detonation zone around the Passage Key Air-to-Ground Gunnery Range located in Manatee County, FL, identified by several law enforcement vessels showing flashing blue lights. All persons and vessels are prohibited from entering or remaining in the safety zone unless authorized by the Captain of the Port St. Petersburg or a designated representative.

## V. Regulatory Analyses

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

### *A. Regulatory Planning and Review*

E.O.s 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. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a ''significant regulatory action,'' under E.O. 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, duration, and time-of-year of the safety zone. Vessel traffic will be able to safely transit around the safety zone. The safety zone will only be enforced for a total of 36 days between the hours of 6 a.m. and 6 p.m., in a location where commercial vessel traffic is expected to be minimal. Commercial vessel traffic may transit the safety zone to the extent compatible with public safety if authorized by the Captain of the Port or designated representatives. The Coast Guard will provide advance notification of the safety zone to the local community by a Local Notice to Mariners.

### *B. Impact on Small Entities*

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

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A, 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 E.O. 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 E.O. 13132.

Also, this rule does not have tribal implications under E.O. 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 M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting no more than 36 days. It will prohibit entry within all navigable waters within a 2000-ft radius of an unexploded ordnance detonation zone identified by law enforcement vessels showing flashing blue lights in the vicinity of Passage Key Air-to-Ground Gunnery Range located in Manatee County, FL. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

*G. Protest Activities*

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

**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, 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T07–0989 to read as follows:

**§ 165.T07–0989 Safety Zone; Unexploded Ordnance Detonation; Passage Key, FL.**

(a) *Regulated areas.* The following regulated area is a safety zone; all waters within a 2000-ft radius of the unexploded ordnance detonation zone around the Passage Key Air-to-Ground Gunnery Range located in Manatee County, FL, identified by several law enforcement vessels showing flashing blue lights.

(b) *Definition.* The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard boat coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officials designated by or assisting the Captain of the Port St. Petersburg in the enforcement of the regulated areas.

(c) *Enforcement period.* This rule is effective without actual notice from November 17, 2015 through December 18, 2015. For purposes of enforcement, actual notice will be used from November 6, 2015 through November 17, 2015.

(d) *Regulations.* (1) All persons and vessels desiring to enter or remain within the regulated area may contact the Captain of the Port St. Petersburg by telephone at (727) 824–7524, or a designated representative via VHF radio on channel 16, to request authorization.

(2) If authorization to enter or remain within the regulated area is granted by the Captain of the Port St. Petersburg or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port St. Petersburg or a designated representative. Recreational vessels authorized to enter the regulated area may be subject to boarding and inspection of the vessel and persons onboard.

(3) The Coast Guard will provide notice of the regulated area by Local Notice to Mariners, and/or on-scene designated representatives.

Dated: November 10, 2015.

**G.D. Case,**

*Captain, U.S. Coast Guard, Captain of the Port, St. Petersburg.*

[FR Doc. 2015–29347 Filed 11–16–15; 8:45 am]

BILLING CODE 9110–04–P

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

[EPA–R10–OAR–2015–0600; FRL–9936–97–Region 10]

## Approval and Promulgation of Implementation Plans; Washington: Additional Regulations for the Benton Clean Air Agency Jurisdiction

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving revisions to the Washington State Implementation Plan (SIP) that were submitted by the Department of Ecology (Ecology) in coordination with Benton Clean Air Agency (BCAA) on August 25, 2015. In the fall of 2014 and spring of 2015, the EPA approved numerous revisions to Ecology's general air quality regulations. However, our approval of the updated Ecology regulations applied only to geographic areas where Ecology, and not a local air authority, has jurisdiction, and statewide to source categories over which Ecology has sole jurisdiction. This final approval allows BCAA to rely primarily on Ecology's general air quality regulations for sources within BCAA's jurisdiction, including implementation of the minor new source review and nonattainment new source review permitting programs. This final action also approves of a small set of BCAA regulatory provisions that replace or supplement parts of Ecology's general air quality regulations.

**DATES:** This final rule is effective December 17, 2015.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R10–OAR–2015–0600. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Air Programs Unit, Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101. The EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** For information please contact Jeff Hunt at (206) 553–0256, *hunt.jeff@epa.gov,* or by using the above EPA, Region 10 address.

**SUPPLEMENTARY INFORMATION:**

### Table of Contents

I. Background Information
II. Final Action
III. Incorporation by Reference
IV. Statutory and Executive Orders Review

## I. Background Information

On September 15, 2015, the EPA proposed to approve revisions to the general air quality regulations contained in the Washington SIP as they apply to BCAA's jurisdiction (80 FR 55280). An explanation of the CAA requirements, a detailed analysis of the submittal, and the EPA's reasons for approval were provided in the notice of proposed rulemaking, and will not be restated here. The public comment period for this proposed rule ended on October 15, 2015. The EPA received no comments on the proposal.

## II. Final Action

### *A. Regulations Approved and Incorporated by Reference Into the SIP*

The EPA is approving and incorporating by reference into the Washington SIP at 40 CFR 52.2470(c)—Table 4, ''Additional Regulations Approved for the Benton Clean Air Agency (BCAA) Jurisdiction'' the BCAA and Ecology regulations listed in the tables below for sources within BCAA's jurisdiction.

APPROVED BENTON CLEAN AIR AGENCY (BCAA) REGULATIONS

| State/local citation | Title/subject | State/local effective date | Explanation |
|---|---|---|---|
| | Regulation 1 | | |
| 1.01 | Name of Agency | 12/11/14 | |
| 1.02 | Policy and Purpose | 12/11/14 | Replaces WAC 173–400–010. |
| 1.03 | Applicability | 12/11/14 | Replaces WAC 173–400–020. |
| 4.01(A) | Definitions—Fugitive Dust | 12/11/14 | Replaces WAC 173–400–030 (38). |
| 4.01(B) | Definitions—Fugitive Emissions | 12/11/14 | Replaces WAC 173–400–030 (39). |
| 4.02(B) | Particulate Matter Emissions—Fugitive Emissions | 12/11/14 | Replaces WAC 173–400–040(4). |
| 4.02(C)(1) | Particulate Matter Emissions—Fugitive Dust | 12/11/14 | Replaces WAC 173–400–040(9)(a). |
| 4.02(C)(3) | Particulate Matter Emissions—Fugitive Dust | 12/11/14 | Replaces WAC 173–400–040(9)(b). |

APPROVED WASHINGTON STATE DEPARTMENT OF ECOLOGY REGULATIONS

| State/local citation | Title/subject | State/local effective date | Explanation |
|---|---|---|---|
| | Chapter 173–400 WAC, General Regulations for Air Pollution Sources | | |
| 173–400–030 | Definitions | 12/29/12 | Except: 173–400–030(38); 173–400–030(39); 173–400–030(91). |
| 173–400–036 | Relocation of Portable Sources | 12/29/12 | |
| 173–400–040 | General Standards for Maximum Emissions | 4/1/11 | Except: 173–400–040(2)(c); 173–400–040(2)(d); 173–400–040(3); 173–400–040(4); 173–400–040(5); 173–400–040(7), second paragraph; 173–400–040(9)(a); 173–400–040(9)(b). |
| 173–400–050 | Emission Standards for Combustion and Incineration Units | 12/29/12 | Except: 173–400–050(2); 173–400–050(4); 173–400–050(5). |
| 173–400–060 | Emission Standards for General Process Units | 2/10/05 | |
| 173–400–070 | Emission Standards for Certain Source Categories | 12/29/12 | Except: 173–400–070(7); 173–400–070(8). |
| 173–400–081 | Startup and Shutdown | 4/1/11 | |
| 173–400–091 | Voluntary Limits on Emissions | 4/1/11 | |
| 173–400–105 | Records, Monitoring and Reporting | 12/29/12 | |
| 173–400–110 | New Source Review (NSR) for Sources and Portable Sources. | 12/29/12 | Except: 173–400–110(1)(c)(ii)(C); 173–400–110(1)(e); 173–400–110(2)(d);<br>—The part of WAC 173–400–110(4)(b)(vi) that says, ''not for use with materials containing toxic air pollutants, as listed in chapter 173–460 WAC,''; |

APPROVED WASHINGTON STATE DEPARTMENT OF ECOLOGY REGULATIONS—Continued

| State/local citation | Title/subject | State/local effective date | Explanation |
|---|---|---|---|
| | | | —The part of 400–110(4)(e)(iii) that says, "where toxic air pollutants as defined in chapter 173–460 WAC are not emitted"; The part of 400–110(4)(e)(f)(i) that says, "that are not toxic air pollutants listed in chapter 173–460 WAC"; —The part of 400–110(4)(h)(xviii) that says, ", to the extent that toxic air pollutant gases as defined in chapter 173–460 WAC are not emitted"; —The part of 400–110(4)(h)(xxxiii) that says, "where no toxic air pollutants as listed under chapter 173–460 WAC are emitted"; —The part of 400–110(4)(h)(xxxiv) that says, ", or ≤1% (by weight) toxic air pollutants as listed in chapter 173–460 WAC"; The part of 400–110(4)(h)(xxxv) that says, "or ≤1% (by weight) toxic air pollutants"; —The part of 400–110(4)(h)(xxxvi) that says, "or ≤1% (by weight) toxic air pollutants as listed in chapter 173–460 WAC"; 400–110(4)(h)(xl), second sentence; —The last row of the table in 173–400–110(5)(b) regarding exemption levels for Toxic Air Pollutants. |
| 173–400–111 | Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources. | 12/29/12 | Except: 173–400–111(3)(h); —The part of 173–400–111(8)(a)(v) that says, "and 173–460–040,"; 173–400–111(9). |
| 173–400–112 | Requirements for New Sources in Nonattainment Areas—Review for Compliance with Regulations. | 12/29/12 | Except: 173–400–112(8). |
| 173–400–113 | New Sources in Attainment or Unclassifiable Areas—Review for Compliance with Regulations. | 12/29/12 | Except: 173–400–113(3), second sentence. |
| 173–400–117 | Special Protection Requirements for Federal Class I Areas | 12/29/12 | Except facilities subject to the applicability provisions of WAC 173–400–700. |
| 173–400–118 | Designation of Class I, II, and III Areas | 12/29/12 | |
| 173–400–131 | Issuance of Emission Reduction Credits | 4/1/11 | |
| 173–400–136 | Use of Emission Reduction Credits (ERC) | 12/29/12 | |
| 173–400–151 | Retrofit Requirements for Visibility Protection | 2/10/05 | |
| 173–400–171 | Public Notice and Opportunity for Public Comment | 12/29/12 | Except: —The part of 173–400–171(3)(b) that says, "or any increase in emissions of a toxic air pollutant above the acceptable source impact level for that toxic air pollutant as regulated under chapter 173–460 WAC"; 173–400–171(12). |
| 173–400–175 | Public Information | 2/10/05 | |
| 173–400–200 | Creditable Stack Height & Dispersion Techniques | 2/10/05 | |
| 173–400–560 | General Order of Approval | 12/29/12 | Except: —The part of 173–400–560(1)(f) that says, "173–460 WAC". |
| 173–400–800 | Major Stationary Source and Major Modification in a Nonattainment Area. | 4/1/11 | |
| 173–400–810 | Major Stationary Source and Major Modification Definitions | 12/29/12 | |
| 173–400–820 | Determining if a New Stationary Source or Modification to a Stationary Source is Subject to these Requirements. | 12/29/12 | |
| 173–400–830 | Permitting Requirements | 12/29/12 | |
| 173–400–840 | Emission Offset Requirements | 12/29/12 | |
| 173–400–850 | Actual Emissions Plantwide Applicability Limitation (PAL) | 12/29/12 | |
| 173–400–860 | Public Involvement Procedures | 4/1/11 | |

*B. Regulations Approved But Not Incorporated by Reference*

In addition to the regulations approved and incorporated by reference above, the EPA reviews and approves state and local clean air agency submissions to ensure they provide adequate enforcement authority and other general authority to implement and enforce the SIP. However, regulations describing such agency enforcement and other general authority are generally not incorporated by reference so as to avoid potential conflict with the EPA's independent

authorities. The EPA reviewed and is approving BCAA, Regulation 1, Article 2, *General Provisions*, as having adequate enforcement and other general authority for purposes of implementing and enforcing the SIP, but is not incorporating this section by reference into the SIP codified in 40 CFR 52.2470(c). Instead, the EPA is including sections 2.01, *Powers and Duties of the Benton Clean Air Agency (BCAA);* 2.02, *Requirements for Board of Directors Members* (replaces WAC 173–400–220); 2.03, *Powers and Duties of the Board of Directors;* 2.04, *Powers and Duties of the Control Officer;* 2.05, *Severability;* and 2.06, *Confidentiality of Records and Information,* in 40 CFR 52.2470(e), *EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures,* as approved but not incorporated by reference regulatory provisions. Finally, for the reasons discussed above, the EPA is moving WAC 173–400–220, *Requirements for Board Members;* WAC 173–400–230, *Regulatory Actions;* WAC 173–400–240, *Criminal Penalties;* WAC 173–400–250, *Appeals;* and WAC 173–400–260, *Conflict of Interest,* currently incorporated by reference in 40 CFR 52.2470(c)—Table 4, to the list of provisions in 40 CFR 52.2470(e) that are approved but not incorporated by reference.

*C. Regulations Removed From the SIP*

The regulations contained in Washington's SIP at 40 CFR 52.2470(c)—Table 4 were last approved by the EPA on June 2, 1995 (60 FR 28726). The EPA is removing from this table WAC 173–400–010 and 173–400–020 because these provisions are replaced by the BCAA corollaries 1.02, *Policy and Purpose* and 1.03, *Applicability,* as shown in *Attachment 2* of the SIP revision. We are also removing WAC 173–400–100, because this outdated provision is no longer part of the EPA-approved SIP for Ecology's direct jurisdiction under CFR 52.2470(c)—Table 2 and BCAA has requested that it be removed from the BCAA's jurisdiction under CFR 52.2470(c)—Table 4. For more information please see the EPA's proposed (79 FR 39351, July 10, 2014) and final (79 FR 59653, October 3, 2014) actions on the general provisions of Chapter 173–400 WAC.

*D. Scope of Proposed Action*

This revision to the SIP applies specifically to the BCAA jurisdiction incorporated into the SIP at 40 CFR 52.2470(c)—Table 4. As discussed in the EPA's October 3, 2014 action on the general provisions of Chapter 173–400 WAC, jurisdiction is generally defined on a geographic basis (Benton County); however there are exceptions (79 FR 59653 at page 59654). By statute, BCAA does not have authority for sources under the jurisdiction of the Energy Facilities Site Evaluation Council (EFSEC). See Revised Code of Washington Chapter 80.50. Under the applicability provisions of WAC 173–405–012, WAC 173–410–012, and WAC 173–415–012, BCAA also does not have jurisdiction for kraft pulp mills, sulfite pulping mills, and primary aluminum plants. For these sources, Ecology retains statewide, direct jurisdiction. Ecology also retains statewide, direct jurisdiction for the Prevention of Significant Deterioration (PSD) permitting program. Therefore, the EPA is not approving into 40 CFR 52.2470(c)—Table 4 those provisions of Chapter 173–400 WAC related to the PSD program. Specifically, these provisions are WAC 173–400–116 and WAC 173–400–700 through 750.

As described in the EPA's April 29, 2015 action, jurisdiction to implement the visibility permitting program contained in WAC 173–400–117 varies depending on the situation. Ecology retains authority to implement WAC 173–400–117 as it relates to PSD permits (80 FR 23721 at page 23726). However for facilities subject to nonattainment new source review (NNSR) under the applicability provisions of WAC 173–400–800, we are approving BCAA to implement those parts of WAC 173–400–117 as they relate to NNSR permits. See 80 FR 23726.

Lastly, the SIP is not approved to apply in Indian reservations in the State, except for non-trust land within the exterior boundaries of the Puyallup Indian Reservation (also known as the 1873 Survey Area), or any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction.

## III. Incorporation by Reference

In accordance with the requirements of 1 CFR 51.5, the EPA is revising our incorporation by reference of 40 CFR 52.2470(c)—Table 4 ''Additional Regulations Approved for the Benton Clean Air Agency (BCAA) Jurisdiction'' to reflect the regulations shown in the tables in section III.A. *Regulations to Approve and Incorporate by Reference into the SIP* and the rules removed from the SIP in section III.C. *Regulations to Remove from the SIP.* The EPA has made, and will continue to make, these documents generally available electronically through *http://www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

## IV. Statutory and Executive Orders Review

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because this action does not involve technical standards; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it will not impose substantial direct costs on tribal

governments or preempt tribal law. This SIP revision is not approved to apply in Indian reservations in the State or any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 19, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

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

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

Dated: November 3, 2015.

**Dennis J. McLerran,**

*Regional Administrator, Region 10.*

For the reasons set forth in the preamble, 40 CFR part 52 is amended as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for Part 52 continues to read as follows:

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

### Subpart WW—Washington

■ 2. In § 52.2470, revise Table 4 in paragraph (c) and Table 1 in paragraph (e) to read as follows:

**§ 52.2470 Identification of plan.**

* * * * *

(c) * * *

TABLE 4—ADDITIONAL REGULATIONS APPROVED FOR THE BENTON CLEAN AIR AGENCY (BCAA) JURISDICTION

[Applicable in Benton County, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012]

| State citation | Title/subject | State effective date | EPA approval date | Explanations |
|---|---|---|---|---|
| **Benton Clean Air Agency (BCAA) Regulations** | | | | |
| Regulation 1 | | | | |
| 1.01 | Name of Agency | 12/11/14 | 11/17/15 [Insert **Federal Register** citation]. | |
| 1.02 | Policy and Purpose | 12/11/14 | 11/17/15 [Insert **Federal Register** citation]. | Replaces WAC 173–400–010. |
| 1.03 | Applicability | 12/11/14 | 11/17/15 [Insert **Federal Register** citation]. | Replaces WAC 173–400–020. |
| 4.01(A) | Definitions—Fugitive Dust | 12/11/14 | 11/17/15 [Insert **Federal Register** citation]. | Replaces WAC 173–400–030 (38). |
| 4.01(B) | Definitions—Fugitive Emissions | 12/11/14 | 11/17/15 [Insert **Federal Register** citation]. | Replaces WAC 173–400–030 (39). |
| 4.02(B) | Particulate Matter Emissions—Fugitive Emissions. | 12/11/14 | 11/17/15 [Insert **Federal Register** citation]. | Replaces WAC 173–400–040(4). |
| 4.02(C)(1) | Particulate Matter Emissions—Fugitive Dust. | 12/11/14 | 11/17/15 [Insert **Federal Register** citation]. | Replaces WAC 173–400–040(9)(a). |
| 4.02(C)(3) | Particulate Matter Emissions—Fugitive Dust. | 12/11/14 | 11/17/15 [Insert **Federal Register** citation]. | Replaces WAC 173–400–040(9)(b). |
| **Washington Department of Ecology Regulations** | | | | |
| Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources | | | | |
| 173–400–030 | Definitions | 12/29/12 | 11/17/15 [Insert **Federal Register** citation]. | Except: 173–400–030(38); 173–400–030(39); 173–400–030(91). |
| 173–400–036 | Relocation of Portable Sources | 12/29/12 | 11/17/15 [Insert **Federal Register** citation]. | |
| 173–400–040 | General Standards for Maximum Emissions. | 4/1/11 | 11/17/15 [Insert **Federal Register** citation]. | Except: 173–400–040(2)(c); 173–400–040(2)(d); 173–400–040(3); 173–400–040(4); 173–400–040(5); 173–400–040(7), second paragraph; 173–400–040(9)(a); 173–400–040(9)(b). |
| 173–400–050 | Emission Standards for Combustion and Incineration Units. | 12/29/12 | 11/17/15 [Insert **Federal Register** citation]. | Except: 173–400–050(2); 173–400–050(4); 173–400–050(5). |

TABLE 4—ADDITIONAL REGULATIONS APPROVED FOR THE BENTON CLEAN AIR AGENCY (BCAA) JURISDICTION—Continued

[Applicable in Benton County, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012]

| State citation | Title/subject | State effective date | EPA approval date | Explanations |
|---|---|---|---|---|
| 173–400–060 .... | Emission Standards for General Process Units. | 2/10/05 | 11/17/15 [Insert **Federal Register** citation]. | |
| 173–400–070 .... | Emission Standards for Certain Source Categories. | 12/29/12 | 11/17/15 [Insert **Federal Register** citation]. | Except: 173–400–070(7); 173–400–070(8). |
| 173–400–081 .... | Startup and Shutdown .................. | 4/1/11 | 11/17/15 [Insert **Federal Register** citation]. | |
| 173–400–091 .... | Voluntary Limits on Emissions ...... | 4/1/11 | 11/17/15 [Insert **Federal Register** citation]. | |
| 173–400–105 .... | Records, Monitoring and Reporting. | 12/29/12 | 11/17/15 [Insert **Federal Register** citation]. | |
| 173–400–107 .... | Excess Emissions ......................... | 9/20/93 | 6/2/95, 60 FR 28726. | |
| 173–400–110 .... | New Source Review (NSR) for Sources and Portable Sources. | 12/29/12 | 11/17/15 [Insert **Federal Register** citation]. | Except: 173–400–110(1)(c)(ii)(C); 173–400–110(1)(e); 173–400–110(2)(d); —The part of WAC 173–400–110(4)(b)(vi) that says, "not for use with materials containing toxic air pollutants, as listed in chapter 173–460 WAC,"; —The part of 400–110(4)(e)(iii) that says, "where toxic air pollutants as defined in chapter 173–460 WAC are not emitted"; The part of 400–110(4)(e)(f)(i) that says, "that are not toxic air pollutants listed in chapter 173–460 WAC"; —The part of 400–110(4)(h)(xviii) that says, ", to the extent that toxic air pollutant gases as defined in chapter 173–460 WAC are not emitted"; —The part of 400–110(4)(h)(xxxiii) that says, "where no toxic air pollutants as listed under chapter 173–460 WAC are emitted"; —The part of 400–110(4)(h)(xxxiv) that says, ", or ≤1% (by weight) toxic air pollutants as listed in chapter 173–460 WAC"; —The part of 400–110(4)(h)(xxxv) that says, "or ≤1% (by weight) toxic air pollutants"; —The part of 400–110(4)(h)(xxxvi) that says, "or ≤ 1% (by weight) toxic air pollutants as listed in chapter 173–460 WAC"; 400–110(4)(h)(xl), second sentence; —The last row of the table in 173–400–110(5)(b) regarding exemption levels for Toxic Air Pollutants. |
| 173–400–111 .... | Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources. | 12/29/12 | 11/17/15 [Insert **Federal Register** citation]. | Except: 173–400–111(3)(h); —The part of 173–400–111(8)(a)(v) that says, "and 173–460–040,"; 173–400–111(9). |
| 173–400–112 .... | Requirements for New Sources in Nonattainment Areas—Review for Compliance with Regulations. | 12/29/12 | 11/17/15 [Insert **Federal Register** citation]. | Except: 173–400–112(8). |
| 173–400–113 .... | New Sources in Attainment or Unclassifiable Areas—Review for Compliance with Regulations. | 12/29/12 | 11/17/15 [Insert **Federal Register** citation]. | Except: 173–400–113(3), second sentence. |
| 173–400–117 .... | Special Protection Requirements for Federal Class I Areas. | 12/29/12 | 11/17/15 [Insert **Federal Register** citation]. | Except facilities subject to the applicability provisions of WAC 173–400–700. |

TABLE 4—ADDITIONAL REGULATIONS APPROVED FOR THE BENTON CLEAN AIR AGENCY (BCAA) JURISDICTION—Continued

[Applicable in Benton County, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012]

| State citation | Title/subject | State effective date | EPA approval date | Explanations |
| --- | --- | --- | --- | --- |
| 173–400–118 | Designation of Class I, II, and III Areas. | 12/29/12 | 11/17/15 [Insert **Federal Register** citation]. | |
| 173–400–131 | Issuance of Emission Reduction Credits. | 4/1/11 | 11/17/15 [Insert **Federal Register** citation]. | |
| 173–400–136 | Use of Emission Reduction Credits (ERC). | 12/29/12 | 11/17/15 [Insert **Federal Register** citation]. | |
| 173–400–151 | Retrofit Requirements for Visibility Protection. | 2/10/05 | 11/17/15 [Insert **Federal Register** citation]. | |
| 173–400–161 | Compliance Schedules | 3/22/91 | 6/2/95, 60 FR 28726. | |
| 173–400–171 | Public Notice and Opportunity for Public Comment. | 12/29/12 | 11/17/15 [Insert **Federal Register** citation]. | Except: —The part of 173–400–171(3)(b) that says, "or any increase in emissions of a toxic air pollutant above the acceptable source impact level for that toxic air pollutant as regulated under chapter 173–460 WAC"; 173–400–171(12). |
| 173–400–175 | Public Information | 2/10/05 | 11/17/15 [Insert **Federal Register** citation]. | |
| 173–400–190 | Requirements for Nonattainment Areas. | 3/22/91 | 6/2/95, 60 FR 28726. | |
| 173–400–200 | Creditable Stack Height & Dispersion Techniques. | 2/10/05 | 11/17/15 [Insert **Federal Register** citation]. | |
| 173–400–205 | Adjustment for Atmospheric Conditions. | 3/22/91 | 6/2/95, 60 FR 28726. | |
| 173–400–210 | Emission Requirements of Prior Jurisdictions. | 3/22/91 | 6/2/95, 60 FR 28726. | |
| 173–400–560 | General Order of Approval | 12/29/12 | 11/17/15 [Insert **Federal Register** citation]. | Except: —The part of 173–400–560(1)(f) that says, "173–460 WAC". |
| 173–400–800 | Major Stationary Source and Major Modification in a Nonattainment Area. | 4/1/11 | 11/17/15 [Insert **Federal Register** citation]. | |
| 173–400–810 | Major Stationary Source and Major Modification Definitions. | 12/29/12 | 11/17/15 [Insert **Federal Register** citation]. | |
| 173–400–820 | Determining if a New Stationary Source or Modification to a Stationary Source is Subject to these Requirements. | 12/29/12 | 11/17/15 [Insert **Federal Register** citation]. | |
| 173–400–830 | Permitting Requirements | 12/29/12 | 11/17/15 [Insert **Federal Register** citation]. | |
| 173–400–840 | Emission Offset Requirements | 12/29/12 | 11/17/15 [Insert **Federal Register** citation]. | |
| 173–400–850 | Actual Emissions Plantwide Applicability Limitation (PAL). | 12/29/12 | 11/17/15 [Insert **Federal Register** citation]. | |
| 173–400–860 | Public Involvement Procedures | 4/1/11 | 11/17/15 [Insert **Federal Register** citation]. | |

* * * * *

(e) * * *

TABLE 1—APPROVED BUT NOT INCORPORATED BY REFERENCE STATUTES AND REGULATIONS

| State citation | Title/subject | State effective date | EPA approval date | Explanations |
| --- | --- | --- | --- | --- |
| **Washington Department of Ecology Regulations** | | | | |
| 173–433–200 | Regulatory Actions and Penalties | 10/18/90 | 1/15/93, 58 FR 4578. | |
| 173–400–220 | Requirements for Board Members | 3/22/91 | 6/2/95, 60 FR 28726. | |
| 173–400–230 | Regulatory Actions | 3/20/93 | 6/2/95, 60 FR 28726. | |
| 173–400–240 | Criminal Penalties | 3/22/91 | 6/2/95, 60 FR 28726. | |
| 173–400–250 | Appeals | 9/20/93 | 6/2/95, 60 FR 28726. | |

TABLE 1—APPROVED BUT NOT INCORPORATED BY REFERENCE STATUTES AND REGULATIONS—Continued

| State citation | Title/subject | State effective date | EPA approval date | Explanations |
| --- | --- | --- | --- | --- |
| 173–400–260 .... | Conflict of Interest ......................... | 3/22/91 | 6/2/95, 60 FR 28726. | |
| **Olympic Region Clean Air Agency Regulations** | | | | |
| 8.1.6 ................. | Penalties ...................................... | 5/22/10 | 10/3/13, 78 FR 61188. | |
| **Spokane Regional Clean Air Agency Regulations** | | | | |
| 8.11 .................. | Regulatory Actions and Penalties | 09/02/14 | 09/28/15, 80 FR 58217. | |
| **Benton Clean Air Agency Regulations** | | | | |
| 2.01 .................. | Powers and Duties of the Benton Clean Air Agency (BCAA). | 12/11/14 | 11/17/15 [Insert **Federal Register** citation]. | |
| 2.02 .................. | Requirements for Board of Directors Members. | 12/11/14 | 11/17/15 [Insert **Federal Register** citation]. | Replaces WAC 173–400–220. |
| 2.03 .................. | Powers and Duties of the Board of Directors. | 12/11/14 | 11/17/15 [Insert **Federal Register** citation]. | |
| 2.04 .................. | Powers and Duties of the Control Officer. | 12/11/14 | 11/17/15 [Insert **Federal Register** citation]. | |
| 2.05 .................. | Severability ................................... | 12/11/14 | 11/17/15 [Insert **Federal Register** citation]. | |
| 2.06 .................. | Confidentiality of Records and Information. | 12/11/14 | 11/17/15] [Insert **Federal Register** citation]. | |

* * * * *

[FR Doc. 2015–29180 Filed 11–16–15; 8:45 am]

BILLING CODE 6560–50–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 2, 15, 74, 87, and 90

**[GN Docket Nos. 14–166 and 12–268; FCC 15–100]**

### Promoting Spectrum Access for Wireless Microphone Operations

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission takes several steps to accommodate the long-term needs of wireless microphone users. Wireless microphones play an important role in enabling broadcasters and other video programming networks to serve consumers, including as they cover breaking news and live sports events. They enhance event productions in a variety of settings—including theaters and music venues, film studios, conventions, corporate events, houses of worship, and internet webcasts. They also help create high quality content that consumers demand and value. In particular, the Commission provides additional opportunities for wireless microphone operations in the TV bands following the upcoming incentive auction, and provides new opportunities for wireless microphone operations to access spectrum in other frequency bands where they can share use of the bands without harming existing users.

**DATES:** Effective December 17, 2015, except for the amendments to §§ 15.37(k) and 74.851(l), which contain new or modified information collection requirements that require approval by the OMB under the *Paperwork Reduction Act* (PRA). The Commission will publish a document in the **Federal Register** announcing the effective date of the amendments when OMB approves. The incorporation by reference listed in the rule is approved by the Director of the Federal Register as of December 17, 2015.

**FOR FURTHER INFORMATION CONTACT:** Paul Murray, Office of Engineering and Technology, (202) 418–0688, email: *Paul.Murray@fcc.gov,* TTY (202) 418–2989.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Report and Order* (R&O), FCC 15–100, adopted August 5, 2015, and released August 11, 2015. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street SW., Washington, DC 20554. The full text may also be downloaded at: *www.fcc.gov.* People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

**Summary of Report and Order**

1. The repurposing of broadcast television band spectrum for wireless services set forth in the *Incentive Auction R&O,* 79 FR 48441, August 15, 2014, will significantly alter the regulatory environment in which wireless microphones operate. Currently, wireless microphone users rely heavily on access to unused channels in the television bands. Following the incentive auction, with the repacking of the television band and the repurposing of current television spectrum for wireless services, there will be fewer frequencies in the UHF band available for use for wireless microphone operations. The Commission took several steps in the *Incentive Auction R&O* to accommodate wireless microphone operations—including providing more opportunities to access spectrum on the channels that will remain allocated for television post-auction and making the 600 MHz Band guard bands available for wireless microphone operations—while also recognizing that the reduction of total available UHF band spectrum will require many wireless microphone users to make adjustments over the next few years regarding the spectrum that they access and the equipment they use. To facilitate wireless microphone users' ability to make these adjustments, the Commission provided that users could

continue to access spectrum repurposed for wireless services during the post-auction transition period, under specified conditions, as they transition affected services to alternative spectrum.

2. This proceeding was initiated to explore steps to address wireless microphone users' longer term needs. The actions the Commission is taking in this R&O make additional spectrum resources available to accommodate wireless microphones users' needs over the long term. The Commission's goal is to enable the development of a suite of devices that operate in different bands and can meet wireless microphone users' various needs while efficiently sharing the spectrum with other users.

**I. Background**

3. In this proceeding the Commission uses the term ''wireless microphones'' to reference wireless microphones and other related wireless audio devices. The Commission has authorized wireless microphone operations in different spectrum bands to accommodate the growing use of these devices by different users. The technical and operational rules for wireless microphone operations in these different bands have varied, depending on the band, and generally are designed to enable wireless microphone users to operate in shared bands along with other users.

*A. Wireless Microphone Operations*

4. Under current rules, the Commission has authorized wireless microphones to operate both on a licensed basis, limited to specified users, and on an unlicensed basis. The table below sets forth the bands in which wireless microphones and related audio devices generally operate today pursuant to the Commission's rules.

| Frequency band | Licensed/unlicensed | Rule part |
| --- | --- | --- |
| 26.1–26.48 MHz (VHF) | Licensed | Part 74. |
| 161.625–161.775 MHz (VHF) | Licensed | Part 74. |
| Portions of 169–172 MHz band (VHF) | Licensed | Part 90. |
| 88–108 MHz (FM) | Unlicensed | Part 15. |
| 450–451, 455–456 MHz (UHF) | Licensed | Part 74. |
| 54–72, 76–88, 174–216, 470–608, 614–698 MHz (VHF and UHF) | Licensed and unlicensed | Part 74 and Part 15 (waiver). |
| 944–952 MHz (UHF) | Licensed | Part 74. |
| 902–928 MHz, 2.4 GHz, 5 GHz (ISM bands) | Unlicensed | Part 15. |
| 1920–1930 MHz (unlicensed PCS) | Unlicensed | Part 15. |
| Ultra-wideband (3.1–10.6 GHz) | Unlicensed | Part 15. |

5. *Recent actions affecting operations in the TV bands.* Most wireless microphones users today operate their devices on a secondary basis in the TV bands, with most operations occurring in the UHF TV bands. Recent actions taken by the Commission in three proceedings affecting the TV bands spectrum—which have involved the repurposing of UHF TV band spectrum for wireless services in the 700 MHz band (channels 52–69, the 698–806 MHz band), the development of rules for TV white space devices in the TV bands, and the repurposing of the 600 MHz Band following the upcoming incentive auction—have affected and will affect the future availability of spectrum for wireless microphone users and uses in these bands. These proceedings inform the instant proceeding, providing the backdrop for many of the issues the Commission is addressing in its efforts here to accommodate wireless microphone users and uses both in the near and longer term.

6. In the *Incentive Auction R&O* (GN Docket No. 12–268) adopted in May 2014, the Commission adopted rules to implement the broadcast television spectrum incentive auction, which will involve reorganizing the existing television band and repurposing a portion of the UHF television band for new wireless broadband services, and which will affect wireless microphone operations across the current TV bands. As part of its decision, the Commission took several actions to accommodate wireless microphone operations, including making rule revisions to provide additional opportunities for wireless microphone operations in the bands that will remain allocated for television following the incentive auction, permitting wireless microphone operations in the newly-designated 600 MHz Band guard bands, and providing for a transition period to give wireless microphone users that will need to cease operating in the spectrum repurposed for 600 MHz Band wireless services sufficient time to replace their equipment and move operations to other spectrum bands available for wireless microphone uses.

7. Finally, concurrent with adoption of the *Incentive Auction R&O,* the Commission adopted the *TV Bands Wireless Microphones Second R&O,* 79 FR 40680, July 14, 2014, (part of WT Dockets 08–166 and 08–167, ET Docket No. 10–24) to broaden the eligibility for wireless microphone operations in the TV bands to include entities that regularly utilize a substantial number of wireless microphones for large events and productions and which have the same needs for interference protection as existing low power auxiliary station (LPAS) licensees. Specifically, the Commission expanded part 74 LPAS eligibility to include qualifying professional sound companies and operators of large venues that routinely use 50 or more wireless microphones.

*B. Wireless Microphones NPRM*

8. In the Notice of Proposed Rulemaking (*NPRM*), 79 FR 69387, November 21, 2014 in this proceeding, the Commission examined wireless microphone users' needs and technologies that can address them, and sought broad comment on a variety of existing and new spectrum bands that might accommodate those needs in the future. It presented an overview of current wireless microphone operations, and observed that most wireless microphone operations today occurred in the TV bands. It also generally discussed wireless microphone operations in other bands, both on a licensed and an unlicensed basis. It discussed the many different types of users and uses (*e.g.,* broadcasters, major sports leagues and theater/entertainment venues, houses of worship, conference centers, corporations, schools, etc.), different types of wireless microphones serving specific needs and applications (from extremely sophisticated, high fidelity microphones used in a professional setting, to microphones that do not require the same level of audio quality or performance to meet particular needs), and varying operational environments (both outdoor and indoor). It also noted that there had been many technological advances in

recent years, and that many operations were being migrated to bands outside of the TV bands, including in bands available for unlicensed operations. Given that wireless microphones serve the needs of diverse users for different types of applications, and make use of several different frequency bands, it sought to develop a full record and framework for how best to accommodate these needs in the near and over the long term. In response to the *NPRM,* the Commission received nearly 90 comments and 17 reply comments.

## II. Discussion

9. In this Order, the Commission takes several actions to accommodate wireless microphone users' needs in the coming years. Many types of users employ wireless microphones in a variety of settings. Wireless microphone operations range from professional uses, with the need for numerous high-performance microphones along with other microphones, to an individual consumer's use of a handheld microphone at a conference or in a karaoke bar. Through these actions, the Commission seeks to enable wireless microphone users to have access to a suite of devices that operate effectively and efficiently in different spectrum bands and can address their respective needs.

10. As discussed below, the Commission adopts several changes in its rules for operations in the TV bands, where most wireless microphone operations occur today. With respect to the TV bands, the Commission revises its rules to provide more opportunities to access spectrum by allowing greater use of the VHF channels and more co-channel operations without the need for coordination where use would not cause harmful interference to TV service. It also expands eligibility for the licensed use of the duplex gap to all entities now eligible to hold LPAS licenses for using TV band spectrum. The Commission also will require new wireless microphones operating in the TV bands and certain other bands to meet the more efficient analog and digital European Telecommunications Standards Institute (ETSI) standards, which will ensure more efficient use of the spectrum. In addition, the Commission addresses consumer education and outreach efforts that can help consumers transition out of the TV band spectrum that is repurposed for wireless services, and equipment certification procedures that will apply to wireless microphones in the future. The Commission also takes several additional actions with respect to other spectrum bands currently available for wireless microphone operations to enable greater use of these bands to accommodate wireless microphone uses in the future. Specifically, it adopts revisions to provide new opportunities for such use in the 169–172 MHz band and the 944–952 MHz band. Finally, the Commission opens up portions of three other sets of spectrum bands—the 941–944 MHz and 952–960 MHz bands (on each side of the 944–952 MHz band), the 1435–1525 MHz band, and the 6875–7125 MHz band—for sharing with licensed wireless microphone operations under specified conditions.

### *A. Promoting Technological Advances*

11. In the *NPRM,* the Commission inquired about advances in the state of analog and digital wireless microphone technologies and the extent to which these technologies could be made more efficient for different types of operations, thereby increasing the number of microphones that could access a given amount of spectrum. In particular, the Commission asked whether it should adopt more spectrally efficient analog and digital emission masks for operations in certain bands. It also sought comment on other technological advances that could promote more opportunities for accommodating wireless microphone operations in different bands over the long term—including development of equipment with replaceable components, expanding the tunability of equipment within bands, the development of multi-band equipment, the use of databases, or the use of electronic keys or similar mechanisms.

12. Wireless microphone manufacturers assert that significant steps have already been taken to make for more efficient use of available spectrum, including the increasing use of newer digital technologies that can greatly expand the number of microphones on a TV channel for many types of applications that do not require the highest sound fidelity. Several also state that more devices are increasingly being designed for operations in bands outside of the TV bands, including in bands permitting unlicensed operations, and that these new devices can efficiently and effectively accommodate many wireless microphone users' needs. Wireless microphone manufacturers generally asserted that adopting rules that require specific features (*e.g.,* modular components, use of multi-band equipment, requirement for database connectivity, or use of electronic keys) are unnecessary and could impair design features and add costs and complexities.

13. While many wireless microphone manufacturers explain that they are already committed to harnessing technological advances in this area, the Commission reiterates the importance of improved spectral efficiency, spectrum sharing, and flexibility. It expects wireless microphone manufacturers to continue to take advantage of technological advances to promote more efficient use of spectrum available for wireless microphone operations. To further promote efficient use, the Commission also is taking the step of adopting the more efficient ETSI standards for wireless microphones in several bands, as discussed below. The Commission also anticipates that future technological advances will enable wireless microphones to more effectively share the available spectrum resource, and require use of certain technological advances to protect incumbent operation when authorizing wireless microphone users to access the 1435–1525 MHz band spectrum in the future.

### *B. Operations in Specific Bands*

14. In the sections below, the Commission addresses the actions that it is taking in this R&O with respect to wireless microphone operations in different spectrum bands. The Commission discusses each of the bands on which it sought comment in the *NPRM,* and its decisions regarding these bands and any revisions that it is adopting.

#### 1. VHF/UHF Television Bands

##### a. Background

15. The Commission's current part 74, subpart H rules authorize operations of wireless microphones and other LPAS on a licensed basis in the bands allocated for TV broadcasting (Channels 2–51, except channel 37). These LPAS devices are intended to transmit over distances of approximately 100 meters. In addition to wireless microphones, these LPAS devices include such uses as cue and control communications and synchronization of TV camera signals. The Commission's rules permit licensed LPAS operations on a secondary, non-exclusive basis. Entities eligible to hold these LPAS licenses include broadcasters, television producers, cable producers, motion picture producers, and qualifying professional sound companies and operators of large venues. Since 2010, the Commission also has permitted unlicensed operations of wireless microphones in the core television bands (channels 2–51, except channel 37) pursuant to a limited waiver and certain part 15 rules

until such time as final rules for unlicensed operations under part 15 are adopted.

16. Under the part 74 LPAS rules, licensed wireless microphones are permitted to operate with a maximum bandwidth of 200 kHz (made up of one or more 25 kHz segments). In the VHF band (channels 2–13, which include the 54–72 MHz, 76–88 MHz, and 174–216 MHz frequencies) power levels are limited to 50 mW, whereas in the UHF band (channels 14–51, except channel 37, which include the 470–608 MHz and 614–698 MHz frequencies), power levels can range up to 250 mW. The power levels for unlicensed wireless microphone operations pursuant to waiver, however, are limited to no more than 50 mW throughout the TV bands (both VHF and UHF). Licensed and unlicensed wireless microphones may operate co-channel with television stations at locations that are separated from television stations by at least 4 kilometers from their protected contours. In addition, licensed LPAS users may operate on a co-channel basis even closer to television stations provided that such operations have been coordinated with affected broadcasters.

17. The particular television channels available for wireless microphone operations will vary depending on the specific location. In many instances these channels also are available for use by unlicensed white space devices. The Commission currently designates the two unused television channels (where available) nearest channel 37 (above and below) for wireless microphone uses, prohibiting white space devices on those channels. As discussed in the *Incentive Auction R&O,* following the incentive auction, these two channels will no longer be designated exclusively for wireless microphones following the repacking of the TV bands. On channels where both wireless microphones and white space devices may operate, licensed LPAS operators—including the newly eligible professional sound companies and venue licensees—will be able to register to obtain protection from interference from white space devices by reserving channel(s), on an as-needed basis, at specified locations and times of operation in the broadcast TV bands databases. In addition, under existing rules certain qualifying unlicensed wireless microphone operators can obtain interference protection from unlicensed white space devices at specified times by registering with the Commission, enabling them to have their operations included within the broadcast TV bands databases. The Commission also indicated that it would be taking steps in the Part 15 proceeding to make improvements to the registration system in the TV bands databases to enable more timely and effective reservation of channels that would be protected from unlicensed white space device operations.

18. As set forth in the *Incentive Auction R&O,* the current VHF/UHF television bands (channels 2–51, except channel 37) will be reorganized following the upcoming incentive auction. As a result of this auction, the amount of spectrum allocated for television services will be reduced and repacked, some of the current TV bands spectrum will be designated for 600 MHz Band guard bands (including the duplex gap), and other TV bands spectrum will be repurposed for 600 MHz Band wireless services. As discussed below, these revisions will affect wireless microphone operations, which currently operate throughout in existing TV bands, in several ways. In the *NPRM,* the Commission sought comment on wireless microphone operations with respect to each of these bands—the TV bands, the 600 MHz Band guard bands, and the 600 MHz Band being repurposed for wireless services.

b. Discussion

19. In this section, the Commission sets forth part 74 rule revisions to accommodate licensed wireless microphone (and other LPAS) operations in the VHF and UHF spectrum in the repacked TV bands that will continue to be available for TV broadcast services following the incentive auction. The Commission is not addressing in this proceeding certain issues relating to wireless microphone operations in the TV bands and in the repurposed 600 MHz Band since these matters are being addressed instead in the part 15 proceeding. In particular, it does not here address the rules for unlicensed wireless microphone operations in the TV bands and the repurposed 600 MHz Band, which are addressed as part of the *Part 15 Report and Order (FCC 15–99, ET Docket No. 14–165, adopted August 6, 2015 and released August 11, 2015).* Similarly, it does not address in this proceeding the technical rules for operations of unlicensed wireless microphones in the guard bands, including the duplex gap. Nor does it address here the technical rules for licensed wireless microphone operations in the duplex gap, since the technical issues relating to their operations are intertwined with the technical issues concerning unlicensed operations in the duplex gap and protection of licensed operations outside of the duplex gap. Finally, the Commission addresses revisions pertaining to the white spaces databases in the *Part 15 Report and Order.*

(i) TV Bands

(a) VHF Band Revisions

20. Under the existing technical rules for LPAS operations under part 74, licensed wireless microphone users that operate on a secondary basis in the VHF band (channels 2–13) operate generally under the same technical rules as for operations in the UHF bands. However, with respect to power levels, VHF band operations are restricted to no more than 50 mW, well below the 250 mW levels permitted for operations in the UHF bands.

21. In the *NPRM,* the Commission sought comment on the potential for expanding use of VHF television channel spectrum for wireless microphone operations. In particular, it asked whether it should revise the power limits for LPAS operations in the VHF band to conform to those applicable for LPAS devices in the UHF television band. The Commission asked whether allowing higher power limits would raise concerns regarding potential interference to TV stations operating in the VHF bands or the wireless video assist devices that operate in the upper VHF band. It also sought comment on the minimum co-channel separation distance, and whether that distance would need to be increased. In addition, it invited comment on other rule revisions that would facilitate more use of this spectrum.

22. The Commission is revising its rules to provide more opportunities for licensed wireless microphone use of these VHF channels. While the Commission is not permitting power levels of up to 250 mW conducted power, it is revising the rules that currently measure the 50 mW limit in terms of conducted power, to specify the 50 mW limit in terms of effective or equivalent isotropically radiated power (EIRP), as suggested by Shure in its comments. Several reasons inform this approach. As noted by Shure, specifying the power levels in terms of EIRP instead of conducted power will be particularly beneficial to wireless microphone users in the VHF band, where the efficiency of antennas is lower due to the longer radio wavelengths. This approach will allow manufacturers to adjust the conducted power output of a device to compensate for low antenna efficiency, thus helping address wireless microphone operators' interest in making greater use of this

spectrum without the need for a larger antenna. By revising the rules to specify the current 50 mW power limits in terms of EIRP, the Commission addresses the Consumer Electronic Association's concerns that wireless microphone operations do not increase the potential for interference to TV broadcasts. This revision represents a balance in addressing the concerns raised, and will increase the performance and usability of wireless microphones operating on this VHF spectrum without significantly increasing the risk of interference to TV. Specifying the power limit in terms of EIRP also ensures uniformity in the maximum radiated power for wireless microphone operations (licensed and unlicensed) in the VHF band. The change the Commission is making does not necessitate any increase in the four kilometer separation distance between wireless microphones and co-channel TV contours since the Commission is not allowing any higher EIRP than it assumed in establishing this distance. The Commission will accept applications to certify LPAS devices under this rule as soon as that rule becomes effective, and it will require applications to certify under this revised rule nine months following release of the Commission's (*Forthcoming Channel Reassignment PN)* to conform the date with related certification requirements the Commission is adopting.

(b) Licensed Co-Channel Operations Closer Than Specified Separation Distances

23. In the *Incentive Auction R&O,* the Commission permitted licensed wireless microphone users to operate closer to television stations than permitted under the revised separation distances (*i.e.,* no closer than 4 kilometers from the outside of the digital television contours) provided that they coordinated their operations with affected broadcasters. The Commission noted, however, that several commenters had proposed to permit wireless microphone operations on a co-channel basis without requiring coordination, such as in locations where the TV signal falls below specified threshold, where the microphones are shielded from the TV signals due to building attenuation, or where no over-the-air television receivers are in operation.

24. In the *NPRM,* the Commission sought to develop a more extensive record on whether to permit licensed wireless microphone operations on a co-channel basis closer than the generally applicable separation distances set forth in its rules, without the need for coordination, noting its goal to provide more opportunities for licensed wireless microphone operations in the spectrum that will continue to be allocated for television services to the extent such operations would not cause harmful interference to TV operations. In particular, the Commission proposed to allow LPAS licensees to operate co-channel with television closer to the television station than provided by the separation distance rules in locations in which the co-channel TV signal is below a specified threshold. It sought comment on the suitable TV signal threshold, and whether other safeguards would ensure that licensed wireless microphone operators do not otherwise cause harmful interference to TV reception. It limited this proposal to licensed wireless microphone users, whom the Commission would expect to have the requisite wireless microphone systems, as well as technical and operational abilities, to be able to determine the level of the co-channel TV signals at a given location, and thus would be able to comply with such a threshold. The Commission also asked whether it should require licensed wireless microphone users to register their co-channel operations in the TV bands databases to provide information to any television licensee concerned about possible harmful interference. As an alternative, it sought comment on whether to permit co-channel licensed wireless microphone operations in indoor venues, such as in theaters or music auditoriums. It also invited comment on other approaches.

25. The Commission will permit closer co-channel operations by licensed wireless microphone operators on any TV channel where the TV signal falls below a threshold of −84 dBm over the entire TV channel, provided certain conditions are met. Such operations will be limited to systems operating at an indoor location, and not in an itinerant fashion where the signal threshold could be ever-changing, and the location is not being used for over-the-air television viewing. The Commission also requires that the licensed operators have the requisite wireless microphone systems for determining the threshold at the location, as well as the professional qualifications for evaluating the signals, and that the signals be measured where the wireless microphones would be operated at the location, and must be scanned across the full six-megahertz TV channel; to the extent directional antennas are employed, they must be rotated to the place of the maximum signal at the location. The Commission believes this approach for licensed wireless microphone operations is reasonable for several reasons. As Sennheiser points out in its comments, the signals would exceed the threshold of visibility under the Advanced Television Systems Committee guidelines. The location of operations is indoors and contained, and wireless microphone signals do not generally transmit beyond very limited distances (*e.g.,* generally ranging between 100–300 feet) at low levels. In addition, the Commission expects that there would be significant attenuation of the wireless microphone signal, both around the microphone (*e.g.,* loss because it is hand-held, or because of body loss) and as a result of building and other attenuation, thus further reducing the likelihood of harming TV viewers outside of the location.

(c) Adoption of ETSI Emission Mask Standards for Analog and Digital Wireless Microphones

26. The technical rules applicable to part 74 LPAS devices operations in the TV bands set forth specified out-of-band emission mask requirements for wireless microphones, regardless of whether the device is analog or digital. These rules have not been revised since 1987.

27. In the *NPRM,* the Commission proposed revising the emission masks applicable to wireless microphones and LPAS devices, with respect to both analog and digital wireless microphones, to comply with the applicable ETSI standards for analog and digital wireless microphones that operate over 200 kHz channels. Specifically, it proposed to require that emissions from analog and digital unlicensed wireless microphones comply with the emission masks in Section 8.3 of ETSI EN 300 422–1, *Electromagnetic compatibility and Radio spectrum Matters (ERM); Wireless microphones in the 25 MHz to 3 GHz frequency range; Part 1: Technical characteristics and methods of measurement.* Because the ETSI emission masks are defined only over a frequency range of plus or minus one megahertz from the wireless microphone carrier frequency, the Commission sought comment on the emission limits that should apply outside of this frequency range. In addition to the ETSI standards, or as an alternative, it inquired whether there are other technical standards that it should adopt to promote more efficient use of the spectrum available for wireless microphone operations in the TV bands. Finally, it asked that, if it were to decide to adopt revised standards, how quickly

it should require new devices to comply with the new standards.

28. To promote more efficient use of the limited TV band spectrum available for wireless microphones, the Commission is adopting the ETSI standard emission masks for LPAS devices used by wireless microphone licensees under its part 74 rules. Specifically, it will require that emissions from analog and digital unlicensed wireless microphones comply with the emission masks in Section 8.3 of ETSI EN 300 422–1 v1.4.2 (2011–08), *Electromagnetic compatibility and Radio spectrum Matters (ERM); Wireless microphones in the 25 MHz to 3 GHz frequency range; Part 1: Technical characteristics and methods of measurement.* Requiring wireless microphones to meet these tighter emission requirements will protect authorized services in adjacent bands from harmful interference, and will improve spectrum sharing by wireless microphones. Outside of the frequency range where the ETSI masks are defined (one megahertz above and below the wireless microphone carrier frequency), the Commission will require that emissions comply with same limit as the edge of the ETSI masks, specifically, 90 dB below the level of the unmodulated carrier. The Commission is incorporating the emission mask requirements set forth in ETSI EN 300 422–1 v1.4.2 (2011–08) into the Part 74 Subpart H LPAS rules by reference and adding it to the list of measurement procedures in section 74.861. The Commission is not persuaded by Lectrosonics' comments that existence of its legacy unlicensed wireless microphones that would not be compliant with the new standard should prevent the Commission from establishing a more efficient standard for wireless microphone devices going forward. The Commission will require the LPAS devices to comply with this standard no later than nine months following release of the *Channel Reassignment PN.*

(d) Other TV Bands Revisions

29. In the *NPRM,* the Commission also sought comment generally on whether it should adopt any other rule revisions for operations of wireless microphones in the TV bands spectrum that would facilitate more effective and efficient operations in these bands. It asked that commenters provide detailed information on reasons for the proposed changes as well as the types of specific rules that they advocate.

30. The Commission concludes that extending the existing waiver of its rules to permit nuclear power plants the continued use of spectrum in the core TV bands would serve the public interest. Consequently, the Commission hereby grants a permanent waiver of its rules to allow the continued use of wireless headsets at nuclear power plants, under the same conditions as the current waiver, in the spectrum that will continue to be allocated for television following the incentive auction. In addition, this waiver will permit nuclear power plants to continue to access the spectrum repurposed for 600 MHz wireless service during the transition period, but no later, provided that they meet the conditions for secondary operations in this band. The terms of this waiver do not extend to include operations in the 600 MHz guard bands, including the duplex gap, which will no longer be allocated for broadcast TV. As discussed in the *Part 15 Report and Order,* wireless microphone operations in these bands will be limited to 20 mW EIRP, which is more restrictive than allowed for wireless microphones in the TV bands. Further, the Commission is not granting, under the terms of this waiver, any right to continue to operate in the 600 MHz Band after the end of the post-auction transition period. Unlike the waiver the Commission is granting, nothing in the record before it indicates whether the 600 MHz wireless licensees might agree to the request of the Nuclear Energy Institute and the United Telecom Council relating to this issue, so the Commission declines to grant their additional request at this time.

31. In granting this permanent waiver, the Commission declines to revise the part 74 LPAS rules to provide for such operations on a licensed basis. The Commission previously declined to make nuclear plants eligible under part 74, and the issues raised regarding the use of these particular devices involve considerations unique to the nuclear power industry, and do not apply to other part 74 LPAS licensees. Further, in light of the Commission's grant of a permanent waiver with the associated conditions, licensee status is not necessary.

c. Eligibility for Licensed Operations in the Duplex Gap

32. In the *Incentive Auction R&O,* the Commission provided that broadcasters and cable programming networks using wireless microphones on a licensed basis would be able to obtain interference protection from unlicensed devices in a portion of the duplex gap at specified times and locations, on an as-needed basis. In the *NPRM,* the Commission sought comment on whether it should expand eligibility for licensed wireless microphone operations in the duplex gap to include all of the entities now eligible for Part 74 LPAS licenses in the TV bands. In particular, the Commission asked whether such expanded eligibility would create problems for broadcasters or cable programming networks operating on this spectrum, or whether these different users generally operate at different locations, such that their respective operations would not likely interfere with each other.

33. As discussed in the *Incentive Auction R&O,* the Commission provided that broadcasters and cable programming networks using wireless microphones on a licensed basis could operate in a portion of the duplex gap, where they would be protected from interference by unlicensed devices in order to have access to spectrum for certain programming, including emergency information. The Commission concludes that expanding eligibility to the other licensed part 74 entities should not cause any problems for broadcasters and cable programming networks since the licensed entities will be obligated to coordinate their operations when and where necessary. The Commission notes that, as a general matter, these different licensees will likely operate at different locations and not interfere with each other.

d. Transition Out of the 600 MHz Band Repurposed for Wireless Services

(i) Background

34. Following the upcoming incentive auction, certain existing television channels in the UHF band will be repurposed for 600 MHz Band wireless services. In the *Incentive Auction R&O* the Commission provided for a multi-year period to help smooth the transition as wireless microphone operators take steps to obtain new equipment and transition out of the use of this spectrum no later than the end of post-auction transition period (*i.e.,* 39 months after the issuance of the *Channel Reassignment PN*). Specifically, following the auction these operators may continue to access the 600 MHz Band during the transition period, but no later, subject to certain conditions. To the extent that either licensed or unlicensed wireless microphone users operate in the 600 MHz Band during this transition period, then consistent with their secondary or unlicensed status they will not be entitled to any interference protection from operations of the primary 600 MHz licensees, and they will be required to cease any operations in the 600 MHz Band if their operations cause harmful

interference to any 600 MHz licensee's operations.

35. In the *NPRM,* the Commission sought comment on how best to facilitate a smooth transition as wireless microphone and other LPAS users cease their operations on the repurposed 600 MHz Band frequencies no later than the end of the post-auction transition period. The Commission indicated that achieving a smooth transition will involve actions by it, by manufacturers and distributors of wireless microphones, and by the various wireless microphone operators themselves, both licensed and unlicensed users. Even though the specific UHF band frequencies repurposed for 600 MHz Band wireless services will not be known until following the auction, beginning preparation for transition as soon as possible will contribute to a smoother transition. The Commission observed that some wireless microphones are likely to be capable of operating on repurposed channels, while others will not. The Commission also pointed out that although the specific frequencies on which particular wireless microphones operate may be identified in the owner's manual, the channels often are not evident on the devices themselves.

(ii) Discussion

(a) Consumer Education and Outreach; Disclosure Requirements

36. The Commission specifically sought comment in the *NPRM* on how best to inform users of wireless microphones on the changes following the auction that will affect their use of wireless microphones in the TV band spectrum that is being repurposed, including the steps necessary to prevent interference to new wireless operations in the 600 MHz spectrum, consistent with its goals expressed in the *Incentive Auction R&O.* The Commission anticipated a need for education and outreach directed at wireless microphone users, and that this should commence before the auction and continue even beyond the end of the 39-month transition period. The Commission proposed that these education and outreach efforts should be undertaken by it, manufacturers, wireless microphone users groups, and relevant trade publications and other possible sources of information for wireless microphone users. As a companion to these efforts, the Commission also proposed requiring that written disclosures accompany new devices at the point of sale to provide further education to wireless microphone users on the devices' operations. In considering these actions, the Commission drew extensively from the approach that it took with respect to the transition of wireless microphones out of the 700 MHz band. Its goals were to make information available so users, particularly unlicensed users, are aware that they must not cause harmful interference to new wireless operations in the 600 MHz band, and must cease operating their wireless microphones on the repurposed 600 MHz Band allocated for 600 MHz Band wireless services no later than the end of the transition period (*i.e.,* 39 months after the release of the *Channel Reassignment PN*); to set in motion a process so they are aware of relevant factors concerning the operation of wireless microphones that are currently in use; and to establish a means for users to locate additional spectrum and equipment for their operations that will be available for their use. The Commission believed that a successful consumer education and outreach campaign would involve its staff working with a broad group of interested entities, including wireless microphone manufacturers, wireless microphones users, and user representatives.

37. The Commission sought comment on the particular actions that wireless microphone manufacturers, distributors, retailers, and other entities comprising the wireless microphone community should take to inform the wide range of wireless microphone users about the ongoing developments concerning wireless microphone use—particularly the need to vacate the repurposed 600 MHz Band, the timetable for doing so, and the conditions for operating in the band during the transition period. It asked what specific information should be provided to wireless microphone users to ensure that they know the requirements for operating in the repurposed spectrum during the transition period and the need to exit the band by the end of the transition, as well as what steps can be taken to provide wireless microphone users with information on the transition prior to the auction. In particular, the Commission inquired whether it would it be beneficial for wireless microphone users to have access to a database or some form of online mapping tool to help users that enter the location and operating frequencies to determine whether they can continue to operate in the repurposed 600 MHz Band during the transition period, and if so, who should be responsible for developing and maintaining (hosting) it. Similarly, the Commission asked whether it should work with wireless microphone manufacturers to obtain information on models of wireless microphones that it could list on its Web site in order to facilitate a smooth transition from the 600 MHz Band. In addition to steps that may involve manufacturers, the Commission sought comment on what steps other parties associated with the sale and operation of wireless microphones (*e.g.,* trade associations, user groups, or industry associations), may be able to take to provide users with information relevant to the transition.

38. The Commission also invited specific comment on what additional information it should make available for wireless microphone users, including Commission-issued consumer ''fact sheets'' and ''frequently asked questions'' (FAQ's) which would address, among other matters, information on operation in the 600 MHz Band, the reason for the need to operate on frequencies outside of that band following the transition, the availability of other frequency bands for wireless microphone use, and the need to comply with Commission rules.

39. Finally, the Commission proposed to revise its point-of-sale disclosure requirement that it adopted in the *TV Bands Wireless Microphones R&O,* 75 FR 9113, March 1, 2010, in order to provide information to wireless microphone users that may have to purchase or lease new equipment so that they can vacate the repurposed 600 MHz Band. Specifically, with regard to sales of wireless microphones that are capable of operating in repurposed spectrum, the Commission proposed to require that such sales include point-of-sale disclosures that inform buyers that they are buying a microphone that cannot be used in certain frequencies following the transition. The Commission also sought comment on how point-of-sale disclosures could be designed to effectively address any ban on manufacturing and marketing of wireless microphones that are capable of operating in the repurposed 600 MHz Band. It also proposed that the revised point-of-sale disclosures direct buyers to the manufacturer's toll free telephone number or the manufacturer's Web site where the buyer can obtain more detailed information on the extent to which the microphone may be affected by repurposing the 600 MHz Band, and asked whether it should retain the existing language in the point-of-sale disclosure requirement that includes the Commission's toll free number and the Commission's Web site where users can obtain additional information on the operation of wireless microphones during the transition period and after

the transition period. The Commission proposed that the effective date for any disclosure requirement, including a point-of-sale requirement, which it may adopt in connection with this or a related proceeding, would be 18 months after the release of the *Channel Reassignment PN,* and sought comment on possible alternative dates as well. It requested comment on the particular factors that should enter into this determination.

40. As set forth in the *NPRM,* consumer education regarding the operations of wireless microphones following the incentive auction is important. Consumers will need to be informed of the many changes that will affect their use of the current TV bands that is being repurposed, including their use of the 600 MHz guard bands and duplex gap, their continued use of repurposed 600 MHz Band during the post-auction transition period (*i.e.,* the 39 months following issuance of the *Channel Reassignment PN*), and their need to cease operations in the 600 MHz Band no later than the end of the post-auction transition period. The steps required are similar to those taken in 2010 to inform consumers about their use of the TV bands that were repurposed for 700 MHz Band wireless services.

41. *Disclosure Requirement.* The Commission requires anyone selling, leasing, or offering for sale or lease wireless microphones that operate in the 600 MHz Band to provide certain disclosures to consumers, pursuant to section 302. These entities must display the Consumer Disclosure, the text of which will be developed by Commission staff, at the point of sale or lease, in a clear, conspicuous, and readily legible manner. In addition, the Consumer Disclosure must be displayed on the Web site of the manufacturer (even in the event the manufacturer does not sell wireless microphones directly to the public) and of dealers, distributors, retailers, and anyone else selling or leasing the devices. The Commission finds that these disclosures are necessary to ensure that consumers are informed that the wireless microphones may be used, under specified conditions, no longer than the post-auction transition period, and to help ensure that wireless microphone users comply with their obligation during the transition period and cease operating on the 600 MHz band after the end of the transition period. The Commission delegates authority to its Consumer and Governmental Affairs Bureau (CGB), working with its Wireless Telecommunications Bureau (WTB) and Office of Engineering and Technology (OET), to prepare the specific language, following issuance of the *Channel Reassignment PN,* that must be used in the Consumer Disclosure and publish it in the **Federal Register**. As discussed above, there is more than one way in which the point-of-sale Consumer Disclosure may be provided to potential purchasers or lessees of wireless microphones, but each of them must satisfy all the requirements noted above, including that the disclosure be provided in writing at the point of sale in a clear, conspicuous, and readily legible manner. One way to fulfill this disclosure requirement would be to display the Consumer Disclosure in a prominent manner on the product box by using a label (either printed onto the box or otherwise affixed to the box), a sticker, or other means. Another way to fulfill the disclosure requirement would be to display the text immediately adjacent to each wireless microphone offered for sale or lease and clearly associated with the model to which it pertains. For wireless microphones offered online or via direct mail or catalog, the disclosure must be prominently displayed in close proximity to the images and descriptions of each wireless microphone. The Commission will require manufacturers, dealers, distributors, and other entities that sell or lease wireless microphones for operation in the 600 MHz Band to comply with the disclosure requirements no later than three months following issuance of the *Channel Reassignment PN,* and it encourages these entities to provide consumers with the required information earlier.

42. *Consumer Outreach.* In addition, the Commission finds that several means should be employed to provide as much notice as possible to users of the need to clear the 600 MHz Band of wireless microphones. The Commission directs CGB, working with WTB and OET, to establish a Web page on its Web site, and prepare and release consumer publications, including a Consumer Fact Sheet and answers to Frequently Asked Questions (FAQs), that inform the public of its decisions affecting wireless microphone operations in the repurposed 600 MHz Band and the guard bands, as set forth in the *Incentive Auction R&O,* this Order, and the *Part 15 Report and Order.* The Commission further directs its staff to identify and contact organizations that represent entities that are known to be users of wireless microphones in the 600 MHz Band, including groups that represent theaters, houses of worship, and sporting venues. The Commission will inform these entities of its decisions affecting wireless microphone operations in the repurposed spectrum and available resources for information on options for wireless microphone use going forward.

43. Further, the Commission expects all manufacturers of wireless microphones to make significant efforts to ensure that all users of such equipment capable of operating in the 600 MHz Band are fully informed of the decisions affecting them, as set forth in the *Incentive Auction R&O,* this Order, and the *Part 15 Report and Order.* Specifically, the Commission expects these manufacturers, at a minimum, to ensure that these users are informed of the need to clear the 600 MHz Band. Manufacturers also should inform users of wireless microphones that they may continue to operate in the 600 MHz Band until the end of the post-auction transition period, but only subject to the conditions set forth in these orders, including the early clearing mechanisms. Further, the Commission expects all manufacturers to contact dealers, distributors, and anyone else who has purchased wireless microphones, and inform them of its decisions to help clear the 600 MHz Band. Manufacturers should also provide information on these decisions to any users that have filed warranty registrations for 600 MHz Band equipment with the manufacturer. The Commission also expects manufacturers to post this information on their Web sites and include it in all of their sales literature.

44. In addition, the Commission notes that manufacturers may choose to offer rebates and trade-in programs for any 600 MHz Band wireless microphones, similar to what was done with respect to transitioning wireless microphone users out of the 700 MHz band. The Commission encourages them to consider creating or establishing such programs here. In contacting dealers and distributors, it expects manufacturers to inform these entities that they should: (1) Inform all customers who have purchased wireless microphones that are capable of operating in the 600 MHz Band of its decision to clear the 600 MHz Band of such devices; (2) post such information on their Web sites; (3) include this information in all other sales materials; (4) provide information in sales materials, including on their Web sites, on the availability of any manufacturer rebate offerings and trade-in programs related to wireless microphones operating in the 600 MHz Band; and (5) comply with the disclosure requirements that the Commission is adopting in this Order.

(b) Post-Auction Prohibition of the Certification, Manufacture, or Marketing of LPAS Devices Operating on the 600 MHz Band

45. All wireless microphones that now operate in the TV bands are certified as compliant with part 74, subpart H of the Commission's rules. The Commission decided in the *Incentive Auction R&O* that all wireless microphones that operate in the portion of the TV bands that will be repurposed 600 MHz Band for licensed wireless services may continue to operate in that spectrum during the post-auction transition period but must cease those operations no later than 39 months after release of the *Channel Reassignment PN.* At the end of the post-auction transition, licensed microphones will be permitted to operate in a portion of the duplex gap, and unlicensed wireless microphones will be permitted to operate in the guard bands and duplex gap, pursuant to the rules adopted in the *Part 15 Report and Order.*

46. In the *NPRM,* the Commission proposed to establish cutoff dates for the certification, manufacturing, and marketing of wireless microphones in the repurposed spectrum to ensure that manufacturers cease making and marketing equipment for operation in repurposed 600 MHz Band spectrum to ensure that manufacturers cease making marketing equipment that cannot be legally used after a certain date. Because similar technical requirements would apply to both licensed and unlicensed wireless microphones, the Commission proposed to apply to both the same transition rules for certification, manufacturing, and marketing in order to be the least disruptive to wireless microphone manufacturers and users. It proposed taking this action pursuant to its authority under section 302(a) of the Communications Act. This Order addresses these issues for licensed wireless microphones generally, and the *Part 15 Report and Order* addresses these issues for unlicensed wireless microphones.

47. In this proceeding, the Commission proposed that parties could no longer submit applications to certify Part 74 wireless microphones that operate in repurposed TV spectrum beginning nine months after the release of the *Channel Reassignment PN,* when the particular frequencies that will need to be vacated will first be identified. The Commission also proposed that it not certify wireless microphones under part 74 that would operate in the 600 MHz guard bands or the unlicensed portion of the duplex gap. The Commission also inquired whether parties should not be able to submit applications to certify wireless microphones that operate in repurposed TV spectrum later than 24 months after the effective date of the service rules that it adopts for licensed wireless microphones, and microphones that do not comply with the new rules may not be manufactured and marketed later than 33 months after the effective date of the service rules it adopts in this proceeding. The Commission also proposed that the effective date of any prohibition on manufacturing or marketing these devices will be 18 months after the release of the *Channel Reassignment PN.* In addition, it requested comment on the economic costs and benefits of different effective dates for the proposed prohibition on manufacturing or marketing. Finally, to the extent that the Commission determines to prohibit such manufacture or marketing, it proposed that any such ban would not apply to devices manufactured in the United States solely for export.

48. The Commission adopts its proposals for establishing cutoff dates for the certification, manufacturing and marketing of licensed wireless microphones in the TV bands, the guard bands (including the duplex gap), and the repurposed 600 MHz Band. The Commission adopts transition rules for the TV bands, the guard bands (including the duplex gap), and the repurposed 600 MHz Band that will allow it to gradually phase out older microphones and introduce new ones that are compliant with the technical rules for part 74 wireless microphones that it adopts in this proceeding and for unlicensed wireless microphones generally and for licensed wireless microphones in the duplex gap that it adopts in the *Part 15 Report and Order.* The Commission is aligning the transition periods as closely as possible with the post-auction transition schedule because this will ensure compliance with the post-auction 600 MHz Band plan and be less disruptive to wireless microphone manufacturers and users.

49. The Commission adopts the cutoff dates proposed in the *NPRM.* It will require applications to certify wireless microphones under the modified part 74 rules nine months after the release of the *Channel Reassignment PN* or no later than 24 months after the effective date of the new rules, whichever occurs first. The Commission will require that manufacturing and marketing of all part 74 wireless microphones that would not comply with the rules for operation in the 600 MHz Band cease 18 months after release of the *Channel Reassignment PN* or no later than 33 months after the effective date of the new rules, whichever occurs first.

50. The Commission recognizes that it is important to provide manufacturers with sufficient time to design new products, obtain Commission certification, and commence manufacturing. It is equally important to allow manufacturers to sell existing devices that allow the public to continue providing service until new products are available in the marketplace. The cutoff dates that the Commission adopts for certification, manufacturing and marketing of wireless microphones appropriately balance these two goals, and it disagrees with the cutoff dates proposed by CTIA and Mobile Future. Manufacturers will not know what band plan they need to design and manufacture to until after the incentive auction is concluded, and it would be unreasonable to require that only certification applications complying with the new rules be accepted at the time the *Channel Reassignment PN* is released. Broadcast stations will be vacating the 600 MHz Band over a 39 month period after the release of the *Channel Reassignment PN,* and new wireless operations will be built out gradually as broadcast stations leave the band and most likely continuing beyond the 39 month transition period. It would be unreasonable to cut off manufacturing and marketing six months into the 39 month transition period since this would deny the public access to devices that would allow them to continue to provide service. The Commission concludes that the cutoff dates it has chosen will encourage manufacturers to concentrate on developing wireless microphones that operate in compliance with new part 74 and part 15 rules and ensure that manufacturers cease making and marketing equipment that cannot be legally used after a certain date. Finally, as proposed in the *NPRM,* the prohibition on manufacture and marketing will not apply to devices manufactured in the United States solely for export.

(c) Modification of LPAS Licenses To Remove Authorization for Operations on the 600 MHz Band

51. In the *NPRM,* the Commission proposed, pursuant to its authority under section 316 of the Communications Act, to modify existing LPAS licenses to the extent necessary to delete frequencies identified as repurposed for the 600 MHz Band in the *Channel Reassignment PN,* effective on the date that the post-auction transition period ends. In addition, it proposed that, following these license

modifications, the LPAS licenses will continue to include authorization to use all frequencies currently included in those licenses other than the repurposed 600 MHz Band. Finally, the Commission proposed that if a licensed user must cease operations of a wireless microphone prior to the end of the post-auction transition period (*i.e.,* because it causes harmful interference to any 600 MHz licensee's operations), the license relating to that wireless microphone will be modified automatically without Commission action to delete the authorization to operate on the repurposed 600 MHz Band, effective on the date that operations are required to cease.

52. The Commission adopts the proposal set forth in the *NPRM.* As set forth in the *Incentive Auction R&O,* during the transition period, wireless microphone users must cease operations if they would cause harmful interference to any 600 MHz wireless operations, and if there are violations of this requirement it will enforce its rules accordingly. The Commission declines the requests to permit wireless microphone operations in the 600 MHz Band following the transition period. As the Commission explained in the *Incentive Auction R&O,* establishing a hard date by which all licensed and unlicensed wireless microphone operations must cease provides needed certainty and clarity about transitioning out of the band, and no party petitioned for reconsideration of its decision on this matter. Finally, the Commission directs WTB to modify LPAS licenses to delete the affected frequencies from LPAS licensees' authorizations, effective at the end of the transition period.

2. Miscellaneous VHF/UHF Bands

a. 26.100–26.480 MHz, 161.625–161.775 MHz, 450–451 MHz, and 455–456 MHz Bands

53. Wireless microphones operating pursuant to the part 74 LPAS rules also are authorized to operate on a licensed basis in small portions of certain broadcast bands, including the 26.100–26.480 MHz, the 161.625–161.775 MHz, the 450–451 MHz, and the 455–456 MHz bands. Eligibility for operating in these bands is limited to broadcasters and broadcast network entities. While the Commission did not propose any specific revisions concerning these rules in the *NPRM,* it sought comment on the current use of these bands for wireless microphone operations, and the more expansive use of these bands in the future. The Commission asked where there are technological advances that may promote more intensive use, and requested comment on any potential revisions that it should make to facilitate the use of these bands for wireless microphone operations.

54. Given commenters' general view that additional use of these bands is limited, and considering the small amount of spectrum they offer, revision of its rules to permit expanded operations in these bands would not yield much benefit. Furthermore, the Commission has sought comment on revising the rules in these bands to allow for the use of digital technologies of Remote Pickup (RPU) stations in another rulemaking, which could result in more intensive use of these bands. The Commission therefore concludes that it will not make these bands available for wireless microphone operations other than as currently authorized, and subject to the outcome in the latter proceeding.

b. 88–108 MHz FM Band

55. As discussed in the *NPRM,* wireless microphone operations have long been permitted in the 88–108 MHz FM band on an unlicensed basis under section 15.239 of the Commission's part 15 rules. While the Commission did not propose any rule revisions in the NPRM, it sought comment on whether wireless microphone users continue to make use of this band for their operations and the extent to which existing or revised rules will be useful for accommodating wireless microphone users' needs in the future. To the extent that revisions were proposed, the Commission requested that parties submit technical information in support of their proposals, as well as analysis of the benefits of such revisions and likely impact on FM broadcasters.

56. Based on the comments and record before the Commission, and the apparently minimal opportunity for making use of this band, it declines to make any revisions to the rules applicable to wireless microphone operations in the 88–108 MHz FM band.

3. 169–172 MHz Band

57. Under the Commission's part 90 rules, entities eligible to hold a Public Safety Pool or Industrial/Business Pool license may operate wireless microphone operations on a secondary basis on eight frequencies in the 169–172 MHz band, which is allocated primarily for Federal use. Specifically, these rules permit wireless microphones to be operated on only eight frequencies: 169.445 MHz, 169.505 MHz, 170.245 MHz, 170.305 MHz, 171.045 MHz, 171.105 MHz 171.845 MHz, and 171.905 MHz. The emission bandwidth may not exceed 54 kilohertz, the frequency stability of the microphones must limit the total emission to within ± 32.5 kilohertz of the assigned frequency, and operations may not exceed an output power level of 50 mW.

58. Wireless microphone operations are not protected from other licensed operations in the band, and must not cause interference to any Government or non-Government operations, and wireless microphone license applications are subject to Government coordination. Other non-Federal operations in the band, which also are secondary to the Federal allocation, operate on 12.5 kilohertz channels, and include (1) operations on 36 specified frequencies between 169.425 MHz and 171.925 MHz for the purpose of transmitting hydrological or meteorological data (hydro channels), (2) operations on 9 frequencies between 170.425 MHz and 172.375 MHz for forest firefighting and conservation purposes (forest firefighting channels), and (3) operations on frequency 170.150 MHz for public safety purposes and broadcast remote pickup stations in certain parts of the country. The current 169–172 MHz band wireless microphone channels overlap the hydro channels, but not the forest firefighting channels or public safety operations on frequency 170.150 MHz.

59. In the *NPRM,* the Commission sought comment on the current use of spectrum in the 169–172 MHz band for wireless microphones, and how the spectrum potentially could be used more expansively and intensively without interfering with Federal operations or the other secondary non-Federal services. It asked what steps it could take to make the band a viable option for more wireless microphone users, and sought comment on two specific approaches: Allowing wireless microphone licensees to combine each of the four neighboring pairs of channels with each other, making four larger-bandwidth channels available on new channel centers between the existing assignable frequencies; or making as much of the 169–172 MHz band as possible available for wireless microphone use and allowing operation with bandwidths of up to 200 kilohertz, subject to appropriate technical or geographic limitations.

60. As noted above, the current 169–172 MHz band wireless microphone channels overlap the hydro channels, but not the forest firefighting channels. Making as much of the 169–172 MHz band as possible available for wireless microphone use and allowing operation with bandwidths of up to 200 kilohertz on center frequencies throughout the band, as advocated by the commenters,

would result in wireless microphone channels overlapping forest firefighting channels. In another proceeding, a petition for rulemaking proposed to make the forest firefighting channels available for vehicular repeater systems (VRS) and other mobile repeaters by other firefighters fighting in-building fires. Despite the benefits that VRS use provides for first responders, the Commission denied that portion of the rulemaking petition. It noted concerns expressed by the National Telecommunications and Information Administration that an interference-free environment must be maintained on the forest firefighting channels because even VRS public safety operations on a secondary basis would pose a risk of creating conflicts with primary Federal safety operations. Consistent with this precedent, the Commission declines to allow wireless microphone operations on center frequencies throughout the band that would overlap forest firefighting channels.

61. The Commission agrees with commenters that it should promote more opportunities for wireless microphone use of this band. Consequently, the Commission will pursue the approach of creating new channel centers between the existing neighboring pairs of channels (*i.e.,* 169.475, 170.275, 171.075, and 171.875 MHz). The Commission concludes that the record supports permitting operation on these new channel centers with a bandwidth of up to 200 kilohertz, rather than merely combining the existing channels into new channels with a bandwidth of less than 120 kilohertz, because 200 kilohertz bandwidth will support higher audio quality, which could facilitate operation in the band by a wider range of users. Wireless microphones that have bandwidth exceeding 54 kilohertz will be required to comply with the emission masks in Section 8.3 of ETSI EN 300 422–1 v1.4.2 (2008–11) that the Commission is adopting for licensed wireless microphone operations in the TV bands.

62. In order to protect Federal operations and the other secondary non-Federal services, the Commission rejects the suggestion that it authorize wireless microphone operations in the 169–172 MHz band on an unlicensed basis pursuant to part 15. Unlicensed operations would eliminate the Federal Government's ability to review and object to new assignments in this primary Federal band. Instead, these operations will be licensed pursuant to part 90 and applications will be subject to Government coordination.

4. 944–952 MHz Band and Adjacent 941–944 MHz and 952–960 MHz Bands

63. In the *NPRM,* the Commission sought comment on making revisions to the rules in the 944–952 MHz band and the two adjacent bands, the 941–944 MHz and 952–960 MHz bands, to accommodate additional licensed wireless microphone operations.

a. 944–952 MHz Band

64. The Commission's part 74, subpart H rules authorize operations of wireless microphones on a licensed basis in the 944–952 MHz band. These LPAS operations are authorized on a co-primary basis along with other Broadcast Auxiliary Services (BAS) consisting of fixed Aural Studio to Transmitter links (STL) stations and fixed Aural Intercity Relay Links stations (ICR). Entities eligible for a license to operate wireless microphones are limited to broadcast licensees and broadcast network entities. LPAS devices using this particular band of spectrum may also be used to transmit synchronizing signals and various control signals to portable or hand-carried TV cameras which employ low power radio signals in lieu of cable to deliver picture signals to the control point at the scene of a remote broadcast. Under the applicable technical rules, the operating bandwidth for LPAS operations may not exceed 200 kHz, and the maximum transmitter power is 1 watt. Several manufacturers have developed wireless microphones that use this band.

65. In the *NPRM,* the Commission sought comment on potential for more intensive use of this band for the licensed wireless microphone operations among the other BAS that use the band. It asked whether, considering that less spectrum may be available for wireless microphone operations in the UHF television bands, licensees expect to make greater use of this band in this band by migrating particular types of uses to this spectrum when they are spectrum-constrained in the TV bands, and whether this band is well-suited for high-quality uses. Because the Commission had proposed adopting ETSI standards for operations in the TV bands, it also proposed adopting these standards for LPAS operations in the 944–952 MHz band.

66. The Commission also proposed expanding eligibility in the 944–952 MHz band to include all of the entities currently eligible under part 74 for licensed operation of LPAS devices in the TV bands, given that their wireless microphone needs are similar to those of broadcasters and broadcast network entities. It asked whether technical limitations and other considerations should be weighed when assessing expansion of licensee eligibility in this band to ensure that such eligibility expansion would not be problematic for existing LPAS operations in this band.

67. Consistent with this record and in accord with adoption of the ETSI standard on emission masks for LPAS devices in the TV bands, the Commission will require that emissions from analog and digital wireless microphones comply with the emission masks in Section 8.3 of ETSI EN 300 422–1 v1.4.2 (2011–08), for future wireless microphones that will use this band—applying these revised standards to new equipment certified under Part 74 in the 944–952 MHz band 9 months after issuance of the *Channel Reassignment PN,* consistent with the requirements for new equipment certified for LPAS devices that operate in the TV bands. Further, the Commission expands eligibility for operations in the 944–952 MHz band to include all entities currently eligible to hold LPAS licenses for operation in the TV bands. This step should help address the need for additional spectrum outside of the TV bands for this entire group of licensed users.

68. Licensed LPAS users operating in the 944–952 MHz band (as in the TV bands) are subject to the frequency selection requirements contained in § 74.803 of its Rules. The Society of Broadcast Engineers (SBE) runs a local frequency coordination program for this band and asserts that coordination would have to be mandatory in order to avoid interference among different licensees. Accordingly, the Commission will also require wireless microphone users seeking access to this band to coordinate their proposed use through the local SBE coordinator.

b. 941–944 MHz Band and 952–960 MHz Band

69. The two bands immediately adjacent to 944–952 MHz band—the 941–944 MHz and the 952–960 MHz bands—are licensed for fixed services in varying bandwidths (from 12.5 kHz up to 200 kHz) in different areas and segments of these eleven megahertz. Most of the spectrum in these two bands is licensed for Private Operational Fixed (including business industrial and public safety) and Common Carrier Fixed Microwave Services authorized under part 101, and fixed Aural Broadcast Auxiliary Services (STL and ICR) authorized under part 74, while smaller portions are authorized for Multiple Address Systems (MAS), which consist of point-to-multipoint

Fixed Microwave Services authorized under part 101 of the rules.

70. Specifically, most of the 941–944 MHz band—the two and a half megahertz between 941.5–944 MHz—is available for licensing for Private and Common Carrier Fixed Microwave Services or for broadcast auxiliary stations. Fixed point-to-point links in these bands are typically used for long distance low data-rate links between locations that have line of sight capability. They employ directional antennas and operate with fairly high effective isotropic radiated power. Receive antennas are also directional, affording some rejection of unwanted signals off-axis from the main lobe of the antenna. The other portion, the half megahertz between 941–941.5 MHz, is authorized for MAS operations, specifically communications from MAS master stations to remote stations; consequently, transmission from the master station is generally omni-directional, generally within a 25-mile radius, to many remote stations. MAS historically has been used by the power, petroleum, and security industries for various alarm, control, interrogation and status reporting requirements as well as by the paging industry, and the licensing scheme adopted by the Commission was designed to accommodate these past and present uses. MAS licenses in this band are either geographically-based or site-based.

71. Most of the 952–960 MHz band—6.8 megahertz of spectrum between 952.85–956.25 MHz and 956.45–959.85 MHz—is licensed for Private Operational Fixed Microwave Service (including business industrial and public safety) authorized under part 101. The remaining portions of the band are also authorized for MAS operations in three distinct portions, totaling 1.2 megahertz. The MAS bands are divided into two groups with differing licensing and service characteristics; these are commonly known as the 928/952/956 band—used for private internal or public safety communications, and the 928/959 MHz band—used by CMRS and paging network incumbents. The MAS portions of these bands have historically been used by the power, petroleum, and security industries for various Supervisory Control and Data Acquisition (SCADA) operations as well as by the paging industry. These licenses also could be either geographically-based or site-based.

72. In the *NPRM,* the Commission proposed making unused portions of the 941–944 MHz and the 952–960 MHz bands available for licensed wireless microphone operations on a secondary basis, generally under the rules applicable for LPAS operations in the 944–952 MHz band, provided that incumbent users in the band could be protected from interference. The Commission inquired about the extent to which there are many locations in these bands where spectrum is unused, potentially available, and in sufficient bandwidth (*e.g.,* 200 kHz) suitable for wireless microphone uses similar to their uses in the TV bands and 944–952 MHz band. Considering the different services and service rules that apply to portions of these bands, and the mix of point-to-point and point-to-multipoint services already operating in these bands, the Commission asked whether specific sub-bands would be more suitable than others for sharing with wireless microphones. In this regard, it first inquired about those portions of the spectrum available for licensing for fixed microwave services, which constitutes the majority of the spectrum in these bands. The Commission sought comment on the ability of wireless microphone users to determine the availability of suitable spectrum at particular locations in these portions of the band, and what issues or factors it should take into account to make spectrum available for wireless microphone operations while protecting the incumbent fixed services that operate in these bands. The Commission then made similar inquiries about making the portions of the spectrum in these bands that are authorized for MAS operations available for wireless microphone operations. Considering that many MAS systems are used by utilities for SCADA operations, it sought comment on whether these existing users operate in the same general geographic areas as wireless microphone users, or whether the wireless microphone operations would be separated geographically because these are different types of uses. It also asked about other factors that it should consider when determining whether and how to permit wireless microphone operations in these MAS portions.

73. The Commission also sought comment on designing rules that would be necessary to address any interference concerns with particular incumbent operations that could arise. It asked whether certain types of services, such as fixed microwave services, would generally not be prone to interference, and whether others, such as MAS operations involving SCADA operations, could be more susceptible to interference and require more protected rules (*e.g.,* rules to specify minimum separation distances, or create protection zones, or imposed greater limitations on power levels used by wireless microphones, or restricting use to indoors). In addition, the Commission sought comment on the technical rules that would apply to wireless microphone operations in these bands. It specifically asked whether wireless microphones should be permitted to operate under the same technical rules for LPAS operations that apply to operations in the 944–952 MHz band (*e.g.,* power limits, maximum bandwidth, Out of Band Emissions (OOBE), including the ETSI standards that it proposed to apply to such operations. Finally, it sought comment on the equipment issues that would pertain to wireless microphone operations in these bands, including various issues relating to the certification process (*e.g.,* whether manufacturers should be able to certificate equipment under the same rules and procedures for LPAS devices that operate in the 944–952 MHz band, or needed to develop new equipment for these bands that would be certificated in a different manner).

74. Based on the record before us, the Commission will open most of the 941–944 and 952–960 MHz bands—the 2.5 megahertz of spectrum between 941.5–944 MHz and the 6.8 megahertz of spectrum between 952.85–956.25 MHz and 956.45–959.85 MHz—for use by wireless microphones and other LPAS license eligible entities currently operating in the TV broadcast bands and for whom it has expanded eligibility to operate in the 944–952 MHz bands. Because wireless microphones operate at low power over short distances, and fixed point-to-point systems employ directional antennas and operate with fairly high effective isotropic radiated power, the Commission believes that the risk of interference between LPAS operations and fixed point-to-point operations is low, and commenters generally agree with that conclusion. The Commission finds further support for its decision in parties' assurances that equipment to utilize these expanded bands could be brought to market quickly. Furthermore, it finds that LPAS operations in the these bands should be subject to the same part 74 technical rules that apply to LPAS operations in the 944–952 MHz band (*e.g.,* the same power limits, maximum bandwidth, and coordination requirements). The Commission also adopts the ETSI standard for emission masks in Section 8.3 of ETSI EN 300 422–1 v1.4.2 (2011–08); and will require emissions beyond +/−1 MHz from the carrier or center frequency to be

attenuated by 90 dB. It will apply this standard to new licenses in the 941.5–944 MHz, 952.85–956.25 MHz and 956.45–959.85 MHz bands upon the effective date of this order. Consistent with the coordination requirements the Commission adopted for the 944–952 MHz band, it will also require wireless microphone users seeking access to the 941.5–944 MHz, 952.85–956.25 MHz and 956.45–959.85 MHz bands to coordinate their proposed use through the local SBE coordinator.

75. The Commission does not, however, open the remaining portions of the bands authorized for MAS operations, in three distinct portions totaling 1.7 megahertz, for licensed wireless microphone operations. Unlike with fixed point-to-point operations, it concludes that there is a greater risk of interference from a wireless microphone being operated at close proximity to a MAS remote station. Unlike fixed point-to-point operations (including BAS studio transmitter links), geographic area MAS licensees may add master and remote stations throughout their service area without prior Commission approval, and incumbent MAS licensees are allowed to expand their systems under certain circumstances. Given the record before the Commission, including the concerns of representatives of MAS interests, it concludes that proponents of using the MAS bands for wireless microphones have not demonstrated that they can coexist with MAS without causing interference. Furthermore, there is only a relatively small amount of spectrum in discrete segments potentially unused and available in this 1.7 megahertz.

5. Unlicensed Operations in the 902–928 MHz, the 2.4 GHz, and the 5 GHz Bands

76. The 902–928 MHz, 2.4 GHz (2400–2483.5 MHz), and 5 GHz (5725–5850 MHz) bands generally permit operations of unlicensed devices pursuant to two part 15 rules, 47 CFR 15.247 and 15.249. Wireless microphones are among the devices that operate on an unlicensed basis in these bands under these rules.

77. In the *NPRM,* the Commission sought general comment on the current and potential uses of the band for various wireless microphone operations, the types of applications for which the bands are best suited, the limitations associated with use of these bands, and technological advances that have improved the ability to make use of the band for wireless microphone operations. In requesting information on the use of these bands, it sought to develop a more complete record of how these bands are useful in meeting various needs of wireless microphone users. The Commission did not propose to revise any of these part 15 rules that apply to a broad range of unlicensed operations.

78. The Commission concludes that although the use of these bands at this time may be more appropriate for certain types of wireless microphone applications, they nonetheless can support devices that are part of the suite of wireless microphone devices that accommodate the needs of various users. It also anticipates that further technological advances can make improvements in performance, and hence make use of these bands more attractive for meeting many wireless microphone users' needs. As noted above, the Commission did not propose to make any revisions of the rules applicable for a wide range of unlicensed uses in these bands, and decline here to make any revisions. It generally is not inclined to make changes to these rules without demonstrated need that changes would benefit the many users of these bands.

6. 1920–1930 MHz Unlicensed PCS Band

79. The 1920–1930 MHz band is allocated to Fixed and Mobile services on a primary basis and is designated for use by Unlicensed Personal Communications Service (UPCS) devices under the Commission's part 15 rules for unlicensed operations. To facilitate the sharing of spectrum in the UPCS band, the current rules require use of a ''listen-before-transmit'' protocol that specifies a process for monitoring the time and spectrum windows that a transmission is intended to occupy for signals above a defined threshold. Digital Enhanced Cordless Telecommunications (DECT) technology may be used in this band since it complies with the general rules for operating in this band. DECT-based radio technology facilitates voice, data, and networking applications with range requirements up to a few hundred meters. DECT technologies minimize interference and can be particularly effective for voice communications, and many manufacturers make wireless microphones that use this spectrum.

80. In the *NPRM,* the Commission invited comment on the current and potential uses of the 1920–1930 MHz UPCS band for wireless microphone applications, advances in wireless microphone technologies making use of this spectrum, and the types of applications for which it may be best suited. It did not propose any revisions, but did ask generally whether it should consider any technical revisions that could make this band more useful for wireless microphone applications without adversely affecting operations of other users in the band.

81. As discussed above, wireless microphone manufacturers are finding ways under the existing rules to make use of this unlicensed band to address particular types of wireless microphone users' needs. The Commission encourages wireless microphone users to make use of this band where it can effectively serve their needs. It did not propose revisions to the rules in this band, and recognizing the many other applications that make use of this band, it will not make revisions at this time.

7. 1435–1525 MHz Band

82. The 1435–1525 MHz band (1.4 GHz band) is shared by the Federal government and industry for aeronautical mobile telemetry (AMT) operations. AMT systems are used for flight testing of manned and unmanned aircraft, missiles, and space vehicles, and associated communications such as range safety, chase aircraft, and weather data. The Department of Defense (DOD) is the major Federal user of the band, although the National Aeronautics and Space Administration (NASA) and the Department of Energy (DOE) also have assignments within it. The commercial aviation industry uses the band for flight testing of new and modified commercial, corporate, and general aviation aircraft at various facilities across the United States. Both the FCC and NTIA recognize the Aerospace and Flight Test Radio Coordinating Council (AFTRCC) as the non-governmental coordinator for assignment of flight test frequencies in the band. Through the Special Temporary Authority (STA) process, professional sound engineering companies responsible for major event productions have obtained authority to operate both wireless microphones (and similar audio devices) and video equipment on a temporary basis (*e.g.,* a few days or a week) to access this spectrum. These STAs supplement the parties' existing access to other spectrum resources (primarily the TV bands) for coverage of sporting and other public events at specified locations around the country. Under existing practice, the applicants have had to demonstrate that they have fully coordinated their proposed spectrum use with AFTRCC before the Commission will grant a STA. The STAs have provided the applicants access to up to 90 megahertz of spectrum in the 1435–1525 MHz band, and only when that spectrum is not subject to AMT use at the specified times and locations.

Operators generally use equipment that has been specially developed or modified for use of the 1.4 GHz band spectrum.

83. In the *NPRM,* the Commission proposed making the 1.4 GHz band spectrum available for use by wireless microphones on a secondary licensed basis, with use limited to licensed professional users at specified locations and times operating pursuant to specified safeguards designed to protect AMT use of the band. It sought general comment on the suitability of this spectrum for wireless microphone operations, and stated its commitment to ensuring that any wireless microphones operating in this spectrum are spectrally efficient and frequency agile.

84. While the Commission sought to provide wireless microphone users in need of additional spectrum resources with access to the 1.4 GHz band spectrum to help accommodate those needs, it contemplated only limited use of this spectrum and did not propose to open it for either widespread or itinerant uses throughout the nation. In particular, the Commission proposed that wireless microphone uses be restricted to specific fixed locations, such as large venues (whether outdoor or indoor), where there may be a need to deploy large numbers of microphones (*e.g.,* 100 or more), and only at specified times. It proposed limiting eligibility to professional users, including broadcasters, professional television and cable programmers, and professional sound engineering companies, and operators at major venues that manage and coordinate wireless microphone operations, *i.e.,* the entities eligible for licensed LPAS operations in the TV bands. In proposing to require prior coordination with AFTRCC, the Commission sought comment on specific coordination mechanisms that would ensure that wireless microphone operations only occur at the locations and times where authorized, and would be effective in preventing the use of these devices at any other location or time without authorization.

85. In considering the appropriate framework for wireless microphone operations in the band, the Commission noted that it already permits secondary, low power short-range Medical Body Area Network (MBAN) devices to share use of another band where AMT operations are primary (*i.e.,* the 2360–2390 MHz band) pursuant to a specified coordination process. The Commission asked about the extent to which the rules for MBAN operations might serve as a model for rules that it should adopt for wireless microphone operations in the 1.4 GHz band. MBAN device operators are required to register each device with the frequency coordinator and provide specified information—including the frequencies to be used, the location of the devices, the power levels used, and point of contact information regarding the entity responsible for the MBAN device operations. MBAN devices also must cease transmission in the absence of a control message. The Commission further noted that, as part of the MBAN proceeding, it had recognized that specific tools, such as electronic keys, could be useful to coordinators as they sought to achieve mutually agreeable coordination agreements.

86. The Commission sought comment on requiring that wireless microphone systems, which often are moved from one location to another (*e.g.,* when used to cover different events), could only operate through use of an automatic mechanism (such as an electronic key, and location-awareness capability, or similar mechanisms) that would serve to prevent wireless microphones from operating unless on approved frequencies in the 1.4 GHz band at the approved location/venue(s) during approved time(s). In addition, the Commission invited comment on whether it should adopt point-of-sale restrictions that would enable only entities licensed to operate in this band (discussed below) to obtain the devices.

87. To the extent the Commission decided to authorize wireless microphone operations in this band, it sought comment on the technical rules that would apply to devices that would use the band, including considerations designed to ensure that the primary AMT operations would be protected. It asked whether the technical rules should be the similar to those that apply to wireless microphones that operate in other bands, as well as whether ETSI standards should be adopted for those devices. To preserve maximum flexibility for wireless microphone operations in the band, it inquired whether it should require wireless microphones to have the capability of tuning across the band, as well as whether wireless microphones designed to operate in the 1.4 GHz band should have modular transmitting components that, if necessary, could be replaced to enhance frequency agility. In addition, the Commission asked whether there should be an interim process for permitting wireless microphone operations in the band as any necessary new devices are being made, and what device certification process should be employed. Finally, consistent with its proposal, the Commission envisioned adding a secondary mobile except aeronautical mobile service allocation to the 1435–1525 MHz band for limited use under the service rules it adopts for the band.

88. As proposed in the *NPRM,* the Commission authorized limited use of the 1.4 GHz band for licensed wireless microphones operations, with secondary status in the band in the table of allocations, and only provided that certain conditions and safeguards designed to protect AMT services are met. Experience through the STA process demonstrates that, under proper conditions, wireless microphones will be able to operate in this band without interfering with the critical aeronautical flight test operations that rely on primary access to this spectrum. Eligibility to use this band will be restricted to professional users (to include broadcasters, professional television and cable programmers, and professional sound engineering companies, and operators at major venues that manage and coordinate wireless microphone operations). The Commission also adopted Shure's recommendation, and will permit 200 kHz analog and digital masks and adopt the emission masks in Section 8.3 of ETSI standard EN 300–422–1 v1.4.2 (2011–08), with power levels of up to 250mW consistent with the rules for UHF operations in the TV bands. To accommodate this limited use, the Commission is adding a new footnote, US84, to the Table of Frequency Allocations. This footnote explicitly permits secondary wireless microphone use in the 1435–1525 MHz band, which is already allocated to the mobile service on a primary basis but restricted to aeronautical telemetry.

89. As proposed in the *NPRM,* the Commission is only authorizing limited use of this spectrum for licensed wireless microphone uses, where access may be important for certain specified events. It is not opening up this band either for widespread use or for itinerant uses throughout the nation. In particular, it is restricting use to specific fixed locations, such as large venues (whether outdoor or indoor), where there is a need to deploy large numbers of microphones (typically 100 or more) for specified time periods, for situations in which the other available spectrum resources are insufficient.

90. Protection of primary service in the band by this new secondary service is of paramount importance. Wireless microphone use in the band must be coordinated with the non-governmental coordinator for assignment of flight test frequencies in the band (*i.e.,* AFTRCC), and authentication and location

verification will be required before a coordinated wireless microphone begins operation. Wireless microphones operating in this band must also be tunable across the entire 1435–1525 MHz band, as recommended by AFTRCC. This capability will facilitate coordination with incumbent users whose aeronautical testing may be variable across the band. Additionally, the Commission will authorize all microphones operating in a particular area to access no more than 30 megahertz in the 1435–1525 MHz band. This requirement will facilitate coexistence in the band by ensuring that wireless microphones operating be able to coordinate around AMT operations and by promoting the development of spectrally efficient technologies (*e.g.,* digital technologies). The Commission also emphasizes that the STA process remains available to address extraordinary situations or special events requiring more spectrum access.

91. The Commission is convinced that many of the elements that led to the successful adoption of the final MBAN service rules will also promote licensed secondary wireless microphone use of the 1.4 GHz band. Chief among these will be the cooperation of the AMT community in recognizing opportunities to share use of the band in those locations and times that will not interfere with the critical existing primary use, and the implementation of a coordination process to allow for such determinations in a timely and effective manner. However, the Commission recognizes that this coordination scenario is different from the MBANs case in that the secondary use will not be restricted to indoor locations in relatively limited and well-defined geographic places (*i.e.,* hospitals). The Commission thinks there is good basis for AFTRCC's suggestions that equipment authentication be done through an automated mechanism and repeated regularly, that the equipment be designed to automatically cease operation in the absence of such registration and authentication, and that the equipment incorporate a geolocation capability more sophisticated than the manual entry of coordinates. Accordingly, the Commission will require manufacturers to design, and operators to use, software-based controls (or similar functionality) to prevent devices from operating in the band except in the specific channels coordinated with AFTRCC for any given location.

92. The Commission will leave the details of these matters for resolution at a future time, to be informed by further negotiation between manufacturers and the flight test community. It is also not mandating, at this time, the use of a specific coordinator or coordinators to represent the wireless microphone community (analogous to the MBAN coordinator). The decision as to whether such a coordinator may be appropriate for the professional licensed wireless microphone user base (and consideration of whether such a coordinator would provide sufficient user oversight so as to allow greater flexibility in how 1.4 GHz wireless microphone equipment may be designed) will be better informed after further discussion by the interested parties.

93. The Commission's intent is to provide a stable new environment for professional wireless microphone users, but it must also be mindful of the fact that, as noted above, wireless microphone use of the 1.4 GHz band will operate pursuant to a secondary allocation. In light of this regulatory status, and considering the history of wireless microphone users having to replace equipment as band availability has evolved, the Commission strongly encourages parties designing equipment for this band to incorporate design elements—such as modular transmitting components or wider tuning capability extending to other bands—that will allow the greatest future flexibility should regulatory circumstances ever change. The Commission reminds licensees and manufacturers that they will bear the future cost of any such changes and, therefore, that relatively small upfront costs to increase flexibility may prevent much greater costs associated with replacing equipment in the unforeseeable future. It intends to continue a dialog with the wireless microphone community so that licensees and manufacturers will be able to anticipate, well in advance, any new developments (*e.g.,* the availability of other bands for wireless microphones) that might inform the design of new equipment.

94. While the Commission concludes that the costs of the particular requirements it is establishing for wireless microphone use of the 1.4 GHz band are outweighed by the benefits of allowing licensed secondary use in a band that would otherwise not be available, it recognizes that the requirements are likely to limit 1.4 GHz wireless microphone use to a relatively limited community of professional users. The limited size of the user pool will facilitate coordinated use of the band and mitigate successfully AFTRCC's concerns regarding unauthorized users. The Commission also expects wireless microphone manufactures to continue to innovate and find further operational efficiencies, and believe that they will be able to draw on the experiences of MBAN proponents as they develop equipment designed to operate in the AMT space. Finally, because the Commission will continue to allow for the existing coordinated use of this band under the STA process, it is not establishing an interim process for permitting wireless microphone use under the new procedures pending the development of new equipment and final coordination and registration requirements.

8. 3.5 GHz Band

95. In the *NPRM,* the Commission noted the *3.5 GHz Band FNPRM* adopted earlier in 2014, in which it sought comment various potential uses of the 3.5 GHz band as it developed rules for operating in that band, *see* 79 FR 31247, June 2, 2014. It made clear that all of the issues regarding the policies and rules for operations in the 3.5 GHz proceeding would be decided in that proceeding, but nonetheless sought general comment on whether wireless microphone operations potentially could be employed in the 3.5 GHz band to help accommodate particular needs of users.

96. In April 2015, the Commission adopted rules for commercial use of 150 megahertz in the 3.5 GHz band, *see* 80 FR 34119, June 15, 2015. These rules specified a federal/non-federal sharing arrangement of that band as part of a broader three-tiered sharing framework, which included Priority Access and General Authorized Access (GAA) tiers of service for commercial wireless use. This band potentially can provide opportunities for wireless microphone operations. Both tiers of service are open to any party eligible for a Commission license and could provide opportunities for wireless microphone operations.

9. 6875–7125 MHz Band

97. As the Commission discussed in the *NPRM,* the 6875–7125 MHz band (7 GHz band) has long been authorized for shared co-primary use for fixed microwave operations among TV BAS stations (including television studio-transmitter links, television relay stations, and television translator relay stations) under part 74 and cable television relay stations (CARS) under part 78 of its rules. Broadcast network and cable entities may also use the band on a secondary basis for mobile or temporary fixed microwave operations for TV and CARS pickup stations. In addition, broadcasters can operate certain BAS facilities in the 7 GHz band

on a short-term, secondary basis without prior authorization for up to 720 hours a year. The BAS stations make it possible for television and radio stations and networks to transmit program materials from the sites of breaking news stories or other live events to television studios for inclusion in broadcast programs. The CARS stations enable cable operators to distribute programming to microwave hubs where it is impossible or too expensive to run cable and to cover live events. In 2011, the Commission also authorized Fixed Services (FS) microwave operations under part 101 (for Private, Common Carrier, or Public Safety microwave systems) to share use of the band, on a co-primary basis, but only in areas where BAS and CARS television pickup operations are not licensed and not on two 25 megahertz channels in the middle of the band reserved for TV pickup stations (channels at 6975–7000 MHz and 7000–7025 MHz).

98. The 250 megahertz in the 7 GHz band is comprised of ten 25 megahertz channels. BAS and CARS licensees may be authorized to operate both fixed and mobile stations on any of these channels, and FS licensees on all but two of them (as noted above). The Commission has not otherwise adopted a formal, nationwide segmentation plan for the 7 GHz band to separate fixed and mobile operation. BAS and CARS licensees are authorized to operate on 25 megahertz channels, FS operators may be authorized to operate on 25 megahertz channels or on smaller channels of 5, 8.33 or 12.5 megahertz. Furthermore, all fixed BAS, CARS, and part 101 FS stations must engage in the same frequency coordination process required of all part 101 services, whereas temporary fixed or mobile TV pickup services continue to be subject to informal coordination procedures within their service areas.

99. In the *NPRM,* the Commission proposed to permit licensed wireless microphone operations on available channels in this band, on a secondary basis, for entities eligible to hold BAS or CARS licenses. Considering the likelihood of significant areas of unused spectrum throughout this band, the Commission sought comment on whether spectrum in this band could be made available for relatively low power, short-range wireless microphone operations without interfering with existing services. Given that BAS and CARS licensees already use the 7 GHz band for certain types of video applications and programming production, it asked whether there would be synergies in permitting wireless microphone operations that could supplement those existing applications. The Commission sought comment on particular rules that could facilitate wireless microphone operations in the band while also protecting existing services, specifically inquiring whether it should make spectrum in all of the 7 GHz band available for wireless microphone operations on a secondary, non-interfering basis, or only make certain portions of the 7 GHz band available for wireless microphone operations. It also sought comment on what technical rules (LPAS or otherwise) would best facilitate wireless microphone operations in the band, whether such rules should include the ETSI standards, and what if any interference criteria such as geographic exclusion zones or OOBE limits would protect incumbent services in the band. Given that coordination among licensees currently is required, the Commission asked to what extent formal or informal coordination of wireless microphone operations should be required—*i.e.,* whether wireless microphone users could share operations among themselves on the same private-sector, frequency-coordinated basis that exists for the use of BAS mobile shared spectrum. Finally, it sought comment on the availability of wireless microphone equipment for this band.

100. The Commission will permit BAS and CARS eligible entities, as well as the other entities eligible to hold LPAS licenses under part 74, to operate wireless microphones on a licensed, secondary basis in the 7 GHz band on two 25 megahertz channels that it will set aside for such use on the top and bottom channels of this band (6875–6900 MHz and 7100–7125 MHz). It declines to make the entire band available for wireless microphone use because there has been no demonstration that there is a need for all 250 megahertz of spectrum to be made available for wireless microphone use. The Commission is particularly concerned about compatibility between wireless microphones and itinerant BAS operations in the two channels reserved for nationwide use. SBE originally supported use of one 25 megahertz channel in the band, and by offering twice as much spectrum, the Commission hopes to create the necessary flexibility for wireless microphones to opportunistically find frequencies they can use on a secondary basis without interfering with, or receiving interference from, primary users with whom they must share and who typically operate at a higher power. Additionally, the Commission is reassured in its approach to the 7 GHz band by the commenters stating that equipment for these bands is readily available internationally and could be easily brought to market. While Broadcast Sports, Incorporated (BSI) favored setting aside 13 megahertz spectrum segments only for wireless microphone use on a primary basis, the Commission declines to do so because the 7 GHz band should remain fully available for BAS, CARS, and point-to-point operations. It is concerned that granting LPAS exclusive or co-primary status could impede the growth of the important existing uses of the band. Furthermore, under the Commission's existing rules, LPAS users are required to avoid causing harmful interference to any other class of station authorized under its rules or the Table of Allocations. BSI has not explained why a different rule is necessary or appropriate in the 7 GHz band. Moreover, the Commission has endeavored to make two 25 megahertz channels available at the top and bottom of the band (more than BSI requested) so that wireless microphones will have additional flexibility to select specific frequencies within the channel that will not cause interference to other services in the bands.

101. With respect to coordination, generally, in lieu of mandating specific interference criteria in its rules, the Commission expects applicants and licensees to work out interference issues in the frequency coordination process. FS, BAS, and CARS (other than mobile or temporary fixed operations) already operate in the 7 GHz band subject to a formal Part 101 coordination process pursuant to which all fixed station applicants must provide affected licensees and contemporaneous applicants with 30-day prior notification and an opportunity to participate in frequency coordination before filing their applications with the Commission. Mobile and temporary fixed stations are generally coordinated through local SBE coordinators pursuant to the requirements in section 74.638(d). The Commission will require new wireless microphone operations in the band to coordinate their operations through the local SBE coordinator. It will permit licensees to aggregate channels in these bands for wider-band transmission. Finally, it will apply the same part 74 technical rules applicable to wireless microphones in the TV broadcast bands to their operations in these bands, require that wireless microphones comply with the emission masks in Section 8.3 of ETSI EN 300 422–1 v1.4.2 (2011–08) and will require

that emissions beyond +/−1 MHz from the carrier or center frequency to be attenuated by 90 dB.

10. Ultra-Wideband

102. The Commission's rules for ultra-wideband (UWB) unlicensed devices are set forth in part 15, subpart F. Operating pursuant to the technical rules set forth in part 15, UWB devices can use spectrum occupied by existing radio services without causing harmful interference, thereby permitting scarce spectrum resources to be used more efficiently. Wireless microphones operating under these rules would be required to operate pursuant to the UWB rules for communications systems, which permit operations in the 3.1–10.6 GHz band. Under the UWB rules, these devices must be designed to ensure that operation can occur indoors only, or must consist of hand-held devices that may be employed for such activities as peer-to-peer operation. The Commission noted that at least one wireless microphone manufacturer has developed and markets wireless microphones that operate under these rules.

103. In the *NPRM,* the Commission sought comment on the current and potential uses of UWB devices for wireless microphone applications. It asked whether there are there particular uses for which wireless microphones operating under UWB rules are well suited, such as indoor and/or short-range operations, and whether manufacturers are promoting the use of UWB wireless microphones for particular applications. Finally, it invited comment regarding steps that it should take to facilitate use of UWB devices for wireless microphone uses. It did not propose or seek comment on any rule revisions that would be designed to accommodate wireless microphone applications.

104. While the Commission did not propose, nor is it adopting, any changes to these rules, it does encourage further developments that can enable various wireless microphone applications to meet particular consumers' needs. Any changes to the existing rules would require much more extensive technical justification and analyses, as an initial matter, which are not before the Commission.

11. Other Potential Bands

105. In the *NPRM,* the Commission invited comment on whether there are other bands not currently available for wireless microphone operations that may be useful in helping to accommodate their needs, whether in the nearer term and over the longer term. In particular, the Commission inquired about the 2020–2025 MHz band, asking whether this band might be technically suitable for wireless microphone operations, the potential equipment availability, and other issues that would need to be considered. It also requested comment on how a decision to permit wireless microphone operations in this band would affect its earlier decision to allocate those five megahertz for non-federal fixed and mobile service, whether allowing access would be helpful in accommodating wireless microphone operations, and whether use of this band for wireless microphones would advance its spectrum management goals, including promoting efficient use of spectrum.

106. The Commission declines to take any action with respect to 2020–2025 MHz at this time. In the *NPRM,* it asked commenters who were interested in this band to address the technical suitability of this band for wireless microphones, to identify the potential availability of equipment for operations in the band, and to explain how wireless microphone use would be consistent with the Commission's earlier decision to allocate this band for non-federal fixed and mobile service. It also sought comment on how permitting wireless microphone operations would be advance spectral efficiency and other spectrum management goals. While certain parties express support for using this band for wireless microphones, the record currently before the Commission does not provide sufficient basis to make this spectrum available for wireless microphone operations at this time, particularly in light of the substantial steps it takes in this R&O to accommodate wireless microphone operations in other bands. Accordingly, while the Commission does not foreclose future consideration of wireless microphone operations in the 2020–2025 MHz band, it is not permitting wireless microphone access to this band at this time.

## III. Procedural Matters

### *A. Paperwork Reduction Analysis*

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

### *B. Final Regulatory Flexibility Analysis*

108. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[1] and Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the in the Notice of Proposed Rule Making (NPRM), Promoting Spectrum Access for Wireless Microphone Operations, GN Docket No. 14–166 and Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, GN Docket No. 12–268.[2] The Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.[3]

### *C. Need for, and Objectives of, the Report and Order*

109. In this Report and Order, we take several actions to accommodate wireless microphone users' needs in the coming years. Many types of users employ wireless microphones in a variety of settings. Wireless microphone operations range from professional uses, with the need for numerous high-performance microphones along with other microphones, to the need for a handheld microphone to transmit voice communications, to a range of different uses and needs for different numbers of microphones in different settings. Through these actions, we seek to enable wireless microphone users to have access to a suite of devices that operate effectively and efficiently in different spectrum bands and can address their respective needs.

110. We adopt several changes in our rules for operations in the TV bands, where most wireless microphone operations occur today. With respect to the TV bands, we revise our rules to provide more opportunities to access spectrum by allowing greater use of the VHF channels and more co-channel

[1] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. 104–121, Title II, 110 Stat. 857 (1996).

[2] *See* Promoting Spectrum Access for Wireless Microphone Operations; GN Docket No. 14–166 and Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, GN Docket 12.268 (FCC 14–145) *Notice of Proposed Rulemaking,* 29 FCC Rcd 12343, adopted September 30, 2014.

[3] *See* 5 U.S.C. 604.

operations without the need coordination where use would not cause harmful interference to TV service. We also open up the licensed use of the duplex gap to all entities eligible to hold LPAS licenses for using TV band spectrum. We also will require new wireless microphones operating in the TV bands and certain other bands to meet the more efficient analog and digital ETSI standards, which will ensure more efficient use of the spectrum. In addition, we address consumer education and outreach efforts that can help consumers transition out of the TV band spectrum that is repurposed for wireless services, and equipment certification procedures that will apply to wireless microphones in the future. We also discuss several additional actions we are taking with respect to other spectrum bands currently available for wireless microphone operations to enable greater use of these band to accommodate wireless microphone uses in the future. Specifically, we adopt revisions to provide new opportunities in the 169–172 MHz band and the 944–952 MHz band. Finally, we open up three other sets of spectrum bands—portions of the 941–944MHz and 952–960 MHz bands, the 1430–1525 MHz band, and the 6875–7125 MHz band—for sharing with licensed wireless microphone operations under specified conditions.

*D. Summary of Significant Issues Raised by Public Comments in Response to the IFRA*

111. There were no public comments filed that specifically addressed the rules and policies proposed in the IRFA.

*E. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration*

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

*F. Description and Estimate of the Number of Small Entities to Which the Final Rules Will Apply*

113. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.[4] The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' [5] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[6] A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.[7]

114. Small Businesses, Small Organizations, and Small Governmental Jurisdictions. Our action may, over time, affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three comprehensive, statutory small entity size standards.[8] First, nationwide, there are a total of 28.2 million small businesses, according to the SBA.[9] In addition, a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' [10] Nationwide, as of 2012, there were approximately 2,300,000 small organizations.[11] Finally, the term ''small governmental jurisdiction'' is defined generally as ''governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' [12] Census Bureau data for 2012 indicate that there were 90,056 local governments in the United States.[13] Thus, we estimate that most governmental jurisdictions are small.

115. Low Power Auxiliary Station (LPAS) Licensees. Existing LPAS operations are intended for uses such as wireless microphones, cue and control communications, and synchronization of TV camera signals. These low power auxiliary stations transmit over distances of approximately 100 meters.[14] The appropriate LPAS size standard under SBA rules is for the category Wireless Telecommunications Carriers (except Satellite). The size standard for that category is that a business is small if it has 1,500 or fewer employees.[15] For this category, census data for 2007 show that there were 1,383 firms that operated for the entire year.[16] Of this total, 1,368 firms had employment of 999 or fewer employees and 15 had employment of 1000 employees or more.[17] Thus, using this data, we estimate that the majority of wireless firms can be considered small. There are a total of more than 1,200 Low Power Auxiliary Station (LPAS) licenses in all bands and a total of over 600 LPAS licenses in the UHF spectrum.[18]

116. *Low Power Auxiliary Device Manufacturers: Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* 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.'' [19] 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.[20] According to Census Bureau data for 2007, there were a total of 939 establishments in this category that

[4] 5 U.S.C. 603(b)(3).

[5] 5 U.S.C. 601(6).

[6] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small business concern'' in 15 U.S.C. 632). Pursuant to the RFA, the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.'' 5 U.S.C. 601(3).

[7] Small Business Act, 15 U.S.C. 632 (1996).

[8] *See* 5 U.S.C. 601(3)–(6).

[9] *See* SBA, Office of Advocacy, ''Frequently Asked Questions,'' *http://www.sba.gov/sites/default/files/FAQ_March_2014_0.pdf* (last visited May 2, 2014; figures are from 2011).

[10] 5 U.S.C. 601(4).

[11] National Center for Charitable Statistics, The Nonprofit Almanac (2012).

[12] 5 U.S.C. 601(5).

[13] U.S. Census Bureau, Government Organization Summary Report: 2012 (rel. Sep. 26, 2013), *http://www2.census.gov/govs/cog/g12_org.pdf* (last visited May 2, 2014).

[14] 47 CFR 74.801.

[15] 13 CFR 121.201 (NAICS code 517210).

[16] U.S. Census Bureau, Table No. EC0751SSSZ5, *Information: Subject Series—Establishment and Firm Size: Employment Size of Firms for the United States: 2007* (NAICS code 517210), *http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5.*

[17] *Id.* Available census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with 1000 employees or more.

[18] FCC, Universal Licensing System (ULS), *available at http://wireless.fcc.gov/uls/index.htm?job=home* (last visited May 13, 2014).

[19] U.S. Census Bureau, 2012 NAICS Definitions: 334220 Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, *http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=334220&search=2012* (last visited May 6, 2014).

[20] 13 CFR 121.201, NAICS code 334220.

operated for the entire year.[21] Of this total, 912 establishments had employment of less than 500, and an additional 10 establishments had employment of 500 to 999.[22] Thus, under this size standard, the majority of firms can be considered small.

117. *Low Power Auxiliary Device Manufacturers: Other Communications Equipment Manufacturing.* The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in manufacturing communications equipment (except telephone apparatus, and radio and television broadcast, and wireless communications equipment).'' [23] The SBA has developed a small business size standard for Other Communications Equipment Manufacturing, which is: All such firms having 750 or fewer employees.[24] According to Census Bureau data for 2007, there were a total of 452 establishments in this category that operated for the entire year.[25] Of this total, 448 establishments had employment below 500, and an additional 4 establishments had employment of 500 to 999.[26] Thus, under this size standard, the majority of firms can be considered small.

118. *Television Broadcasting.* This Economic Census category ''comprises establishments primarily engaged in broadcasting images together with sound. These establishments operate television broadcasting studios and facilities for the programming and transmission of programs to the public.'' [27] The SBA has created the following small business size standard for Television Broadcasting firms: Those having $38.5 million or less in annual receipts.[28] The Commission has estimated the number of licensed commercial television stations to be 1,388.[29] In addition, according to Commission staff review of the BIA Advisory Services, LLC's *Media Access Pro Television Database* on March 28, 2012, about 950 of an estimated 1,300 commercial television stations (or approximately 73 percent) had revenues of $14 million or less.[30] We therefore estimate that the majority of commercial television broadcasters are small entities.

119. We note, however, that in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included.[31] Our estimate, therefore, likely overstates the number of small entities that might be affected by our action because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, an element of the definition of ''small business'' is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any television station from the definition of a small business on this basis and is therefore possibly over-inclusive to that extent.

120. In addition, the Commission has estimated the number of licensed noncommercial educational (NCE) television stations to be 396.[32] These stations are non-profit, and therefore considered to be small entities.[33]

121. There are also 2,414 low power television stations, including Class A stations and 4,046 television translator stations.[34] Given the nature of these services, we will presume that all of these entities qualify as small entities under the above SBA small business size standard.

122. *Cable Television Distribution Services.* Since 2007, these services have been defined within the broad economic census category of Wired Telecommunications Carriers; that category is defined as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies.'' [35] The SBA has developed a small business size standard for this category, which is: All such firms having 1,500 or fewer employees.[36] Census data for 2007 shows that there were 3,188 firms that operated for the duration of that year.[37] Of those, 3,144 had fewer than 1,000 employees, and 44 firms had more than 1,000 employees. Thus under this category and the associated small business size standard, the majority of such firms can be considered small.

123. *Cable Companies and Systems.* The Commission has also developed its own small business size standards, for the purpose of cable rate regulation. Under the Commission's rules, a ''small

[21] U.S. Census Bureau, Table No. EC0731SG3, Manufacturing: Summary Series: General Summary: Industry Statistics for Subsectors and Industries by Employment Size: 2007 (NAICS code 334220), *http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_31SG3.* The number of ''establishments'' is a less helpful indicator of small business prevalence in this context than would be the number of ''firms'' or ''companies,'' because the latter take into account the concept of common ownership or control. Any single physical location for an entity is an establishment, even though that location may be owned by a different establishment. Thus, the numbers given may reflect inflated numbers of businesses in this category, including the numbers of small businesses.

[22] *Id.* An additional 17 establishments had employment of 1,000 or more.

[23] U.S. Census Bureau, *2012 NAICS Definitions: 334290 Other Communications Equipment Manufacturing, http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=334290&search=2012* (last visited May 6, 2014).

[24] 13 CFR 121.201, NAICS code 334290.

[25] U.S. Census Bureau, Table No. EC0731SG3, Manufacturing: Summary Series: General Summary: Industry Statistics for Subsectors and Industries by Employment Size: 2007 (NAICS code 334290), *http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_31SG3&prodType=table* (last visited May 6, 2014). The number of ''establishments'' is a less helpful indicator of small business prevalence in this context than would be the number of ''firms'' or ''companies,'' because the latter take into account the concept of common ownership or control. Any single physical location for an entity is an establishment, even though that location may be owned by a different establishment. Thus, the numbers given may reflect inflated numbers of businesses in this category, including the numbers of small businesses.

[26] *Id.* There were no establishments that had employment of 1,000 or more.

[27] U.S. Census Bureau, *2012 NAICS Definitions: 515120 Television Broadcasting,* (partial definition), *http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=515120&search=2012* (last visited May 6, 2014).

[28] 13 CFR 121.201 (NAICS code 515120) (updated for inflation in 2010).

[29] *See FCC News Release,* Broadcast Station Totals as of December 31, 2013 (rel. January 8, 2014), *http://transition.fcc.gov/Daily_Releases/Daily_Business/2014/db0108/DOC-325039A1.pdf.*

[30] We recognize that BIA's estimate differs slightly from the FCC total given.

[31] ''[Business concerns] are affiliates of each other when one concern controls or has the power to control the other or a third party or parties controls or has to power to control both.'' 13 CFR 21.103(a)(1).

[32] *See FCC News Release,* Broadcast Station Totals as of December 31, 2013 (rel. January 8, 2014), *http://transition.fcc.gov/Daily_Releases/Daily_Business/2014/db0108/DOC-325039A1.pdf.*

[33] *See generally* 5 U.S.C. 601(4), (6).

[34] *See FCC News Release,* Broadcast Station Totals as of December 31, 2013 (rel. January 8, 2014), *http://transition.fcc.gov/Daily_Releases/Daily_Business/2014/db0108/DOC-325039A1.pdf.*

[35] U.S. Census Bureau, *2012 NAICS Definitions: 517110 Wired Telecommunications Carriers, http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=517110&search=2012* (last visited May 5, 2014).

[36] U.S. Small Business Administration, Table of Small Business Size Standards Matched to North American Industry Classification System Codes, at 28 (2014), *http://www.sba.gov/sites/default/files/files/size_table_01222014.pdf.*

[37] *See* U.S. Census Bureau, American FactFinder, 2007 Economic Census of the United States, Table No. EC0751SSSZ5, Establishment and Firm Size: Employment Size of Firms for the United States: 2007, NAICS code 517110, *http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5 (last visited May 7, 2014).*

cable company'' is one serving 400,000 or fewer subscribers, nationwide.[38] Industry data indicate that of approximately 1,100 cable operators nationwide, all but ten are small under this size standard.[39] In addition, under the Commission's rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers.[40] Current Commission records show 4,945 cable systems nationwide.[41] Of this total, 4,380 cable systems have fewer than 20,000 subscribers, and 565 systems have 20,000 or more subscribers, based on the same records. Thus, under this standard, we estimate that most cable systems are small entities.

124. *Cable System Operators.* The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' [42] The Commission has determined that an operator serving fewer than 677,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate.[43] Industry data indicate that of approximately 1,100 cable operators nationwide, all but ten are small under this size standard.[44] We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million,[45] and therefore we are unable to estimate more accurately the number of cable system operators that would qualify as small under this size standard.

125. *Direct Broadcast Satellite (''DBS'') Service.* DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic ''dish'' antenna at the subscriber's location. DBS, by exception, is now included in the SBA's broad economic census category, Wired Telecommunications Carriers,[46] which was developed for small wireline firms. Under this category, the SBA deems a wireline business to be small if it has 1,500 or fewer employees.[47] To gauge small business prevalence for the DBS service, the Commission relies on data currently available from the U.S. Census for the year 2007. According to that source, there were 3,188 firms that in 2007 were Wired Telecommunications Carriers. Of these, 3,144 operated with less than 1,000 employees, and 44 operated with more than 1,000 employees. However, as to the latter 44 there is no data available that shows how many operated with more than 1,500 employees. Based on this data, the majority of these firms can be considered small.[48] Currently, only two entities provide DBS service, which requires a great investment of capital for operation: DIRECTV and EchoStar Communications Corporation (''EchoStar'') (marketed as the DISH Network).[49] Each currently offers subscription services. DIRECTV [50] and EchoStar [51] each report annual revenues that are in excess of the threshold for a small business. Because DBS service requires significant capital, we believe it is unlikely that a small entity as defined by the SBA would have the financial wherewithal to become a DBS service provider.

126. *Cable and Other Subscription Programming.* This industry comprises establishments primarily engaged in operating studios and facilities for the broadcasting of programs on a subscription or fee basis. The broadcast programming is typically narrowcast in nature (*e.g.,* limited format, such as news, sports, education, or youth-oriented). These establishments produce programming in their own facilities or acquire programming. The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers.[52] The SBA size standard for this industry establishes as small any company in this category which receives annual receipts of $38.5 million or less.[53] Based on U.S. Census data for 2007, a total of 659 establishments operated for the entire year.[54] Of that 659, 197 operated with annual receipts of $10 million or more. The remaining 462 establishments operated with annual receipts of less than $10 million. Based on this data, the Commission estimates that the majority of establishments operating in this industry are small.

127. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* 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

[38] 47 CFR 76.901(e). The Commission determined that this size standard equates approximately to a size standard of $100 million or less in annual revenues. Implementation of Sections of the 1992 Cable Act: Rate Regulation, *Sixth Report and Order and Eleventh Order on Reconsideration,* 10 FCC Rcd 7393, 7408 (1995).

[39] Industry Data, National Cable & Telecommunications Association, *https://www.ncta.com/industry-data* (last visited May 6, 2014); R.R. Bowker, *Broadcasting & Cable Yearbook 2010,* ''Top 25 Cable/Satellite Operators,'' p. C–2 (data current as of December, 2008).

[40] 47 CFR 76.901(c).

[41] The number of active, registered cable systems comes from the Commission's Cable Operations and Licensing System (COALS) database on Aug. 28, 2013. A cable system is a physical system integrated to a principal headend.

[42] 47 U.S.C. 543(m)(2); *see* 47 CFR 76.901(f) & nn. 1–3.

[43] 47 CFR 76.901(f); *see* Public Notice, *FCC Announces New Subscriber Count for the Definition of Small Cable Operator,* DA 01–158 (Cable Services Bureau, Jan. 24, 2001).

[44] R.R. Bowker, *Broadcasting & Cable Yearbook 2006,* ''Top 25 Cable/Satellite Operators,'' pages A–8 & C–2 (data current as of June 30, 2005); Warren Communications News, *Television & Cable Factbook 2006,* ''Ownership of Cable Systems in the United States,'' pp. D–1805 to D–1857.

[45] The Commission does receive such information on a case-by-case basis if a cable operator appeals a local franchise authority's finding that the operator does not qualify as a small cable operator pursuant to 76.901(f) of the Commission's rules. See 47 CFR 76.909(b).

[46] *See* 13 CFR 121.201 (NAICS code 517110).

[47] *Id.*

[48] *See* U.S. Census Bureau, Table No. EC0751SSSZ5, *Information: Subject Series—Establishment and Firm Size: Employment Size of Firms for the United States: 2007* (NAICS code 517110), *http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5.*

[49] *See Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming,* Fifteenth Annual Report, MB Docket No. 12–203, 28 FCC Rcd 10496, 10507, para. 27 (2013) (''*15th Annual Report''*).

[50] As of June 2012, DIRECTV is the largest DBS operator and the second largest MVPD, serving an estimated 19.8% of MVPD subscribers nationwide. *See 15th Annual Report,* 28 FCC Rcd at 687, Table B–3.

[51] As of June 2012, DISH Network is the second largest DBS operator and the third largest MVPD, serving an estimated 13.01% of MVPD subscribers nationwide. *Id.* As of June 2006, Dominion served fewer than 500,000 subscribers, which may now be receiving ''Sky Angel'' service from DISH Network. See id. at 581, para. 76.

[52] U.S. Census Bureau, 2012 NAICS Definitions: 515210 Cable and Other Subscription Programming, *http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=515210&search=2012* (last visited Mar. 6, 2014).

[53] See 13 CF R section 121.201 (NAICS code 515210).

[54] See U.S. Census Bureau, Table No. EC0751SSSZ1, Information: Subject Series—Establishment and Firm Size: Receipts Size of Establishments for the United States: 2007 (NAICS code 515210), *http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ1.*

equipment.'' [55] 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.[56] According to Census Bureau data for 2007, there were a total of 939 establishments in this category that operated for part or all of the entire year. Of this total, 912 had less than 500 employees and 17 had more than 1000 employees.[57] Thus, under that size standard, the majority of firms can be considered small.

128. *Audio and Video Equipment Manufacturing.* The SBA has classified the manufacturing of audio and video equipment under in NAICS Codes classification scheme as an industry in which a manufacturer is small if it has fewer than 750 employees.[58] Data contained in the 2007 U.S. Census indicate that 492 establishments operated in that industry for all or part of that year. In that year, 488 establishments had fewer than 500 employees; and only 1 had more than 1000 employees.[59] Thus, under the applicable size standard, a majority of manufacturers of audio and video equipment may be considered small.

129. *Wireless Telecommunications Carriers (except satellite).* The Census Bureau defines this category as follows: ''This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular phone services, paging services, wireless Internet access, and wireless video services.'' [60] The appropriate size standard under SBA rules is for the category Wireless Telecommunications Carriers (except Satellite). The size standard for that category is that a business is small if it has 1,500 or fewer employees.[61] For this category, census data for 2007 show that there were 1,383 firms that operated for the entire year.[62] Of this total, 1,368 firms had employment of 999 or fewer employees and 15 had employment of 1000 employees or more.[63] Similarly, according to Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, PCS, and Specialized Mobile Radio (''SMR'') Telephony services.[64] Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees.[65] Consequently, the Commission estimates that approximately half or more of these firms can be considered small. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

130. *Manufacturers of unlicensed devices.* In the context of this FRFA, manufacturers of part 15 unlicensed devices that are operated in the UHF–TV band (channels 14–51) for wireless data transfer fall into the category of Radio and Television and Wireless Communications Equipment Manufacturing. 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.'' [66] The SBA has developed the small business size standard for this category as firms having 750 or fewer employees.[67] According to Census Bureau data for 2007, there were a total of 939 establishments in this category that operated for the entire year.[68] Of this total, 912 had less than 500 employees and 17 had more than 1000 employees. Thus, under that size standard, the majority of firms can be considered small.

131. *Personal Radio Services/Wireless Medical Telemetry Service (''WMTS'').* Personal radio services provide short-range, low power radio for personal communications, radio signaling, and business communications not provided for in other services. The Personal Radio Services include spectrum licensed under part 95 of our rules.[69] These services include Citizen Band Radio Service (''CB''), General Mobile Radio Service (''GMRS''), Radio Control Radio Service (''R/C''), Family Radio Service (''FRS''), Wireless Medical Telemetry Service (''WMTS''), Medical Implant Communications Service (''MICS''), Low Power Radio Service (''LPRS''), and Multi-Use Radio Service (''MURS'').[70] There are a variety of methods used to license the spectrum in these rule parts, from licensing by rule, to conditioning operation on successful completion of a required test, to site-based licensing, to geographic area licensing. Under the RFA, the Commission is required to make a determination of which small entities are directly affected by the rules adopted. Since all such entities are wireless, we apply the definition of Wireless Telecommunications Carriers (except Satellite), pursuant to which a small entity is defined as employing 1,500 or fewer persons.[71] For this category, census data for 2007 show that there were 1,383 firms that operated for the entire year.[72] Of this total, 1,368 firms had employment of 999 or fewer

[55] U.S. Census Bureau, 2012 NAICS Definitions: 334220 Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, *http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=334220&search=2012* (last visited Mar. 6, 2014).

[56] 13 CFR 121.201 (NAICS code 334220).

[57] *See* U.S. Census Bureau, Table No. EC0731SG3, *Manufacturing: Summary Series: General Summary: Industry Statistics for Subsectors and Industries by Employment Size: 2007* (NAICS code 334220), *http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_31SG3.*

[58] 13 CFR 121.201 (NAICS code 334310).

[59] *See* U.S. Census Bureau, Table No. EC0731SG3, *Manufacturing: Summary Series: General Summary: Industry Statistics for Subsectors and Industries by Employment Size: 2007* (NAICS code 334310), *http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_31SG3.*

[60] U.S. Census Bureau, *2012 NAICS Definitions: 517210 Wireless Telecommunications Carriers (except Satellite), http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=517210&search=2012* (last visited Mar. 6, 2014).

[61] 13 CFR 121.201 (NAICS code 517210).

[62] U.S. Census Bureau, Table No. EC0751SSSZ5, *Information: Subject Series—Establishment and Firm Size: Employment Size of Firms for the United States: 2007* (NAICS code 517210), *http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5.*

[63] *Id.* Available census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with 1000 employees or more.

[64] *See Trends in Telephone Service* at Table 5.3.

[65] *See id.*

[66] U.S. Census Bureau, *2012 NAICS Definitions: 334220 Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=334220&search=2012* (last visited Mar. 6, 2014).

[67] 13 CFR 121.201 (NAICS code 334220).

[68] U.S. Census Bureau, Table No. EC0731SG3, *Manufacturing: Summary Series: General Summary: Industry Statistics for Subsectors and Industries by Employment Size: 2007* (NAICS code 334220), *http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_31SG3.*

[69] 47 CFR part 95.

[70] The Citizens Band Radio Service, General Mobile Radio Service, Radio Control Radio Service, Family Radio Service, Wireless Medical Telemetry Service, Medical Implant Communications Service, Low Power Radio Service, and Multi-Use Radio Service are governed by subpart D, subpart A, subpart C, subpart B, subpart H, subpart I, subpart G, and subpart J, respectively, of part 95 of the Commission's rules. *See generally* 47 CFR part 95.

[71] 13 CFR 121.201 (NAICS Code 517210).

[72] U.S. Census Bureau, Table No. EC0751SSSZ5, *Information: Subject Series—Establishment and Firm Size: Employment Size of Firms for the United States: 2007* (NAICS code 517210), *http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5.*

employees and 15 had employment of 1000 employees or more.[73] Thus under this category and the associated small business size standard, the Commission estimates that the majority of personal radio service and WMTS providers are small entities.

132. However, we note that many of the licensees in these services are individuals, and thus are not small entities. In addition, due to the mostly unlicensed and shared nature of the spectrum utilized in many of these services, the Commission lacks direct information upon which to base a more specific estimation of the number of small entities under an SBA definition that might be directly affected by our action.

133. *Motion Picture and Video Production.* The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in producing, or producing and distributing motion pictures, videos, television programs, or television commercials.'' [74] The SBA has developed a small business size standard for this category, which is: All such businesses having $30 million dollars or less in annual receipts.[75] Census data for 2007 show that there were 9,478 establishments that operated that year.[76] Of that number, 9,128 had annual receipts of $24,999,999 or less, and 350 had annual receipts ranging from not less than $25,000,000 to $100,000,000 or more.[77] Thus, under this size standard, the majority of such businesses can be considered small entities.

134. *Radio Broadcasting.* The SBA defines a radio broadcast station as a small business if such station has no more than $38.5 million in annual receipts.[78] Business concerns included in this industry are those ''primarily engaged in broadcasting aural programs by radio to the public.'' [79] According to review of the BIA Publications, Inc. Master Access Radio Analyzer Database as of November 26, 2013, about 11,331 (or about 99.9 percent) of 11,341 commercial radio stations have revenues of $35.5 million or less and thus qualify as small entities under the SBA definition. The Commission notes, however, that, in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations [80] must be included. This estimate, therefore, likely overstates the number of small entities that might be affected, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies.

135. In addition, an element of the definition of ''small business'' is that the entity not be dominant in its field of operation. The Commission is unable at this time to define or quantify the criteria that would establish whether a specific radio station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any radio station from the definition of a small business on this basis and therefore may be over-inclusive to that extent. Also, as noted, an additional element of the definition of ''small business'' is that the entity must be independently owned and operated. The Commission notes that it is difficult at times to assess these criteria in the context of media entities and the estimates of small businesses to which they apply may be over-inclusive to this extent.

136. *Radio, Television, and Other Electronics Stores.* The Census Bureau defines this economic census category as follows: ''This U.S. industry comprises: (1) establishments known as consumer electronics stores primarily engaged in retailing a general line of new consumer-type electronic products such as televisions, computers, and cameras; (2) establishments specializing in retailing a single line of consumer-type electronic products; (3) establishments primarily engaged in retailing these new electronic products in combination with repair and support services; (4) establishments primarily engaged in retailing new prepackaged computer software; and/or (5) establishments primarily engaged in retailing prerecorded audio and video media, such as CDs, DVDs, and tapes.'' [81] The SBA has developed a small business size standard for Electronic Stores, which is: All such firms having $32.5 million or less in annual receipts.[82] According to Census Bureau data for 2007, there were 11,358 firms in this category that operated for the entire year.[83] Of this total, 11,323 firms had annual receipts of under $25 million, and 35 firms had receipts of $25 million or more but less than $50 million.[84] Thus, the majority of firms in this category can be considered small.

*G. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities*

137. In this proceeding, we invited comment on potential revisions to the existing rules for part 74 wireless microphone (and other LPAS) operations in the spectrum that will remain allocated for TV services following the repacking process. Specifically, we invited comment on revisions to the technical rules for LPAS operations on the VHF band; on permitting licensed LPAS operations on channels in locations closer to the television stations (including within the DTV contour), without the need for coordination, provided that the television signal falls below specified technical thresholds; on adoption of the ETSI emission mask standard for analog and digital wireless microphones; and general comment on other potential revisions concerning licensed LPAS operations in the TV bands.

138. We understand the importance of the 944–952 MHz band for broadcasters as well as other licensed, professional wireless microphone users. Consistent with this record and in accord with adoption of the ETSI standard for LPAS devices in the TV bands. we also adopt the ETSI standards EN 300 422–1, section 8.3.1.2 for analog emissions and section 8.3.2.2 for digital emissions uniformly for future wireless microphones that will use this band—applying these revised standards to new

[73] *Id.* Available census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with 1000 employees or more.

[74] U.S. Census Bureau, *2012 NAICS Definitions: 512110 Motion Picture and Video Production, http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=512110&search=2012* (last visited Mar. 6, 2014).

[75] 13 CFR 121.201, 2012 NAICS code 512110.

[76] U.S. Census Bureau, Table No. EC0751SSSZ5, *Information: Subject Series—Establishment and Firm Size: Employment Size of Firms for the United States: 2007* (NAICS code 512110), *http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5.*

[77] *See id.*

[78] 13 CFR 121.201, 2012 NAICS code 515112.

[79] U.S. Census Bureau, *2012 NAICS Definitions: 515112 Radio Broadcasting, http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=515112&search=2012* (last visited Mar. 6, 2014).

[80] *See* n.14.

[81] U.S. Census Bureau, *2012 NAICS Definitions, 443142 Electronics, http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=443142&search=2012* NAICS Search (last visited May 6, 2014).

[82] 13 CFR 121.201, NAICS code 443142.

[83] U.S. Census Bureau, 2007 Economic Census, Subject Series: Retail Trade, Estab & Firm Size: Summary Statistics by Sales Size of Firms for the United States: 2007, NAICS code 443142 (released 2010), *http://www2.census.gov/econ2007/EC/sector44/EC0744SSSZ4.zip* (last visited May 7, 2014). Though the current small business size standard for electronic store receipts is $30 million or less in annual receipts, in 2007 the small business size standard was $9 million or less in annual receipts. In 2007, there were 11,214 firms in this category that operated for the entire year. Of this total, 10,963 firms had annual receipts of under $5 million, and 251 firms had receipts of $5 million or more but less than $10 million. *Id.*

[84] *Id.* An additional 33 firms had annual receipts of $50 million or more.

equipment certified under part 74 in the 944–952 MHz band 9 months after issuance of the *Channel Reassignment PN,* consistent with the requirements for new equipment certified for LPAS devices that operate in the TV bands. Further, we expand eligibility for operations in the 944–952 MHz band to include all entities currently eligible to hold LPAS licenses for operation in the TV bands, which should help address the need for additional spectrum outside of the TV bands for this entire group of licensed users.

139. Licensed LPAS users operating in the 944–952 MHz band (as in the TV bands) are subject to the frequency selection requirements contained in section 74.803 of our rules.[85] SBE runs a local frequency coordination program for this band and asserts its coordination would have to be mandatory in order to avoid interference among different licensees.[86] Accordingly, we will also require wireless microphone users seeking access to this band to coordinate their proposed use through the local SBE coordinator.[87]

140. *Consumer Outreach.* We find that several means should be employed to provide as much notice as possible to users of the need to clear the 600 MHz Band of wireless microphones. We direct CGB, working with WTB and OET, to establish a Web page on the Commission's Web site, and prepare and release consumer publications, including a Consumer Fact Sheet and answers to Frequently Asked Questions (FAQs), that inform the public of our decisions affecting wireless microphone operations in the repurposed 600 MHz Band and the guard bands, as set forth in the *Incentive Auction R&O,* this R&O, and the *Part 15 Report and Order.*[88] We further direct Commission staff to identify and contact organizations that represent entities that are known to be users of wireless microphones in the 600 MHz Band, including groups that represent theaters, houses of worship, and sporting venues. We will inform these entities of our decisions affecting wireless microphone operations in the repurposed spectrum and available resources for information on options for wireless microphone use going forward.

141. Further, we expect all manufacturers of wireless microphones to make significant efforts to ensure that all users of such equipment capable of operating in the 600 MHz Band are fully informed of the decisions affecting them, as set forth in the *Incentive Auction R&O,* this Report and Order, and the *Part 15 Report and Order.* Specifically, we expect these manufacturers, at a minimum, to ensure that these users are informed of the need to clear the 600 MHz Band. Manufacturers also should inform users of wireless microphones that they may continue to operate in the 600 MHz Band until the end of the post-auction transition period, but only subject to the conditions set forth in these orders, including the early clearing mechanisms. Further, we expect all manufacturers to contact dealers, distributors, and anyone else who has purchased wireless microphones, and inform them of our decisions to help clear the 600 MHz Band. Manufacturers should also provide information on these decisions to any users that have filed warranty registrations for 600 MHz Band equipment with the manufacturer. We also expect manufacturers to post this information on their Web sites and include it in all of their sales literature.

142. In addition, we urge all manufacturers to offer rebates and trade-in programs for any 600 MHz Band wireless microphones, and widely publicize these programs to ensure that all users of wireless microphones are fully informed. To the extent manufacturers do not offer a rebate or trade-in program for 600 MHz Band wireless microphones, we strongly encourage them to create or re-establish such programs. In contacting dealers and distributors, we expect manufacturers to inform these entities that they should: (1) Inform all customers who have purchased wireless microphones that are capable of operating in the 600 MHz Band of our decision to clear the 600 MHz Band of such devices; (2) post such information on their Web sites; (3) include this information in all other sales literature; (4) provide information in sales literature, including on their Web sites, on the availability of any manufacturer rebate offerings and trade-in programs related to wireless microphones operating in the 600 MHz Band; and (5) comply with the disclosure requirements that we are adopting in this Report and Order.

143. *Disclosure Requirement.* We require anyone selling, leasing, or offering for sale or lease wireless microphones that operate in the 600 MHz Band to provide certain written disclosures to consumers, pursuant to section 302. These entities must display the Consumer Disclosure, the text of which will be developed by Commission staff, at the point of sale or lease,[89] in a clear, conspicuous, and readily legible manner. In addition, the Consumer Disclosure must be displayed on the Web site of the manufacturer (even in the event the manufacturer does not sell wireless microphones directly to the public) and of dealers, distributors, retailers, and anyone else selling or leasing the devices. We delegate authority to the Consumer and Governmental Affairs Bureau, working with the Wireless Telecommunications Bureau and the Office of Engineering and Technology, to prepare the specific language, following issuance of the *Channel Reassignment PN,* that must be used in the Consumer Disclosure and publish it in the **Federal Register**. As discussed above, there is more than one way in which the point-of-sale Consumer Disclosure may be provided to potential purchasers or lessees of wireless microphones, but each of them must satisfy all the requirements noted above, including that the disclosure be provided in writing at the point of sale in a clear, conspicuous, and readily legible manner. One way to fulfill this disclosure requirement would be to display the Consumer Disclosure in a prominent manner on the product box by using a label (either printed onto the box or otherwise affixed to the box), a sticker, or other means. Another way to fulfill the disclosure requirement would be to display the text immediately adjacent to each wireless microphone offered for sale or lease and clearly associated with the model to which it pertains. For wireless microphones offered online or via direct mail or catalog, the disclosure must be prominently displayed in close proximity to the images and descriptions of each wireless microphone. We will require manufacturers, dealers, distributors, and other entities that sell or lease wireless microphones for operation in the 600 MHz Band to comply with the disclosure requirements no later than three months following issuance of the *Channel Reassignment PN,* and we encourage these entities to provide consumers with the required information earlier.[90]

[85] *See* 47 CFR 74.803.

[86] SBE Comments at 13.

[87] These processes are described on SBE's Web site. *See* The Society of Broadcast Engineers, Frequency Coordination, *http://www.sbe.org/sections/freq_local.php.*

[88] See part 15 Report and Order, section [__] (discussing requirements relating to unlicensed wireless microphones).

[89] By "point of sale or lease" we mean the place or Web site where wireless microphones are displayed or offered for consumers to purchase or lease.

[90] This disclosure requirement requires approval from the Office of Management and Budget (OMB) as a new information collection under the Paperwork Reduction Act (PRA). We anticipate approval of the requirement shortly following publication of a summary of this Report and Order

*E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

144. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[91]

145. The rule revisions that we are adopting provide additional opportunities for licensed wireless microphone users, both in frequency bands in which they currently operate and in additional frequency bands. The majority of these changes are permissive, meaning that wireless microphone manufacturers may choose to incorporate new capabilities in future devices. We adopt rules to establish cutoff dates for the certification, manufacturing and marketing of licensed wireless microphones in the 600 MHz band repurposed for wireless services following the incentive auction. We will no longer accept applications to certify licensed wireless microphones that operate in the 600 MHz band nine months after the release of the *Channel Reassignment PN* or no later than 24 months after the effective date of the new rules, whichever occurs first. We will require that manufacturing and marketing of all licensed wireless microphones that would not comply with the 600 MHz Band cease 18 months after release of the *Channel Reassignment PN* or no later than 33 months after the effective date of the new rules, whichever occurs first.

*Report to Congress:* The Commission will send a copy of the Report and Order, including this FRFA, in a report to Congress pursuant to the Congressional Review Act.[92] In addition, the Commission will send a copy of the Report and Order, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the Report and Order and FRFA (or summaries thereof) will also be published in the **Federal Register**.[93]

146. The Office of Federal Register (OFR) recently revised the regulations to require that agencies must discuss in the preamble of the rule ways that the materials the agency incorporates by reference are reasonably available to interested persons and how interested parties can obtain the materials. In addition, the preamble of the rule must summarize the material. 1 CFR 51.5(b). In accordance with OFR's requirements, the discussion in this section summarizes ETSI standard. The following document is available from the European Telecommunications Standards Institute, 650 Route des Lucioles, F–06921 Sophia Antipolis Cedex, France, or at *http://www.etsi.org/deliver/etsi_en/3004000_300499/30042201/01.04.02_60/en_30042201v01010402p.pdf.* ''ETSI EN 300 422–1 V1.4.2 (2011–08): Electromagnetic compatibility and Radio spectrum Matters (ERM); Wireless microphones in the 25 MHz to 3 GHz frequency range; Part 1: Technical characteristics and methods of measurement, August 2011, IBR approved for section 15.236(g).'' This standard requires wireless microphones to meet certain emission requirements which will protect authorized services in adjacent bands from harmful interference, and will improve spectrum sharing by wireless microphones.

Congressional Review Act: The Commission will send a copy of this Report and Order to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

**IV. Ordering Clauses**

147. Pursuant to sections 1, 4(i), 4(j), 7(a), 301, 302, 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 157(a), 301, 302a, 303(f), 303(g), and 303(r), this Report and Order *is adopted.*

148. Parts 2, 15, 74, 87, and 90 of the Commission's rules, 47 CFR parts 2, 15, 74, 87, and 90, ARE AMENDED as set forth in the final rules.

149. The rules adopted herein *will become effective* December 17, 2015, except for sections 15.37(k) and 74.851(l), which contain new or modified information collection requirements that require approval by the OMB under the PRA, which *will become effective* after the Commission publishes a notice in the **Federal Register** announcing such approval and the relevant effective date.

150. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

151. Pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), and section 1.925 of the Commission's rules, 47 CFR 1.925, that the waiver request filed on July 16, 2009 and revised on September 23, 2009 by the Nuclear Energy Institute and the United Telecom Council for waiver of parts 2 and 90 of the Commission's *rules IS DISMISSED AS MOOT IN PART* as set forth in the Order *and otherwise denied.*

152. Pursuant to section 5(c) of the Communications Act of 1934, as amended, 47 U.S.C. prepare the specific language that must be used in the Consumer Disclosure, as set forth in this Report 47

**List of Subjects**

*47 CFR Part 2*

Communication equipment and Reporting and recordkeeping requirements.

*47 CFR Part 15*

Communications equipment, Incorporation by reference, and Reporting and recordkeeping requirements.

*47 CFR Part 74*

Communication equipment, Education, Incorporation by reference, and Report and recordkeeping requirements.

*47 CFR Part 87*

Commination equipment and Reporting and recordkeeping requirements.

*47 CFR Part 90*

Communication equipment, Incorporation by reference, Reporting and recordkeeping requirements.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

**Final Rules**

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 2, 15, 74, 87, and 90 as follows:

## PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

■ 1. The authority citation for part 2 continues to read as follows:

in the **Federal Register**, sufficiently in advance of the date by which the disclosure requirement goes into effect.

[91] *See* 5 U.S.C. 603(c).

[92] *See* 5 U.S.C. 801(a)(1)(A).

[93] *See* 5 U.S.C. 604(b).

**Authority:** 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

■ 2. Section 2.106, the Table of Frequency Allocations, is amended as follows:

■ a. Page 33 is revised.

■ b. In the list of United States (US) Footnotes, footnote US84 is added.

**§ 2.106 Table of Frequency Allocations.**

The revision and addition read as follows:

* * * * *

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| International Table | | | United States Table | | FCC Rule Part(s) |
|---|---|---|---|---|---|
| Region 1 Table | Region 2 Table | Region 3 Table | Federal Table | Non-Federal Table | |
| 1400-1427<br>EARTH EXPLORATION-SATELLITE (passive)<br>RADIO ASTRONOMY<br>SPACE RESEARCH (passive)<br><br>5.340 5.341 | | | 1400-1427<br>EARTH EXPLORATION-SATELLITE (passive)<br>RADIO ASTRONOMY US74<br>SPACE RESEARCH (passive)<br><br>5.341 US246 | | |
| 1427-1429<br>SPACE OPERATION (Earth-to-space)<br>FIXED<br>MOBILE except aeronautical mobile<br><br>5.338A 5.341 | | | 1427-1429.5<br>LAND MOBILE (medical telemetry and medical telecommand) US350<br><br>5.341 US79 | 1427-1429.5<br>LAND MOBILE (telemetry and telecommand)<br>Fixed (telemetry)<br><br>5.341 US79 US350 NG338A | Private Land Mobile (90)<br>Personal Radio (95) |
| 1429-1452<br>FIXED<br>MOBILE except aeronautical mobile<br><br>5.338A 5.341 5.342 | 1429-1452<br>FIXED<br>MOBILE 5.343<br><br>5.338A 5.341 | | 1429.5-1432<br><br>5.341 US79 US350 | 1429.5-1432<br>FIXED (telemetry and telecommand)<br>LAND MOBILE (telemetry and telecommand)<br><br>5.341 US79 US350 NG338A | |
| | | | 1432-1435<br><br>5.341 US83 | 1432-1435<br>FIXED<br>MOBILE except aeronautical mobile<br><br>5.341 US83 NG338A | Wireless Communications (27) |
| 1452-1492<br>FIXED<br>MOBILE except aeronautical mobile<br>BROADCASTING<br>BROADCASTING-SATELLITE 5.208B<br><br>5.341 5.342 5.345 | 1452-1492<br>FIXED<br>MOBILE 5.343<br>BROADCASTING<br>BROADCASTING-SATELLITE 5.208B<br><br>5.341 5.344 5.345 | | 1435-1525<br>MOBILE (aeronautical telemetry) US338A<br><br>5.341 US84 US343 | | Low Power Auxiliary (74H)<br>Aviation (87) |
| 1492-1518<br>FIXED<br>MOBILE except aeronautical mobile<br><br>5.341 5.342 | 1492-1518<br>FIXED<br>MOBILE 5.343<br><br>5.341 5.344 | 1492-1518<br>FIXED<br>MOBILE<br><br>5.341 | | | |
| 1518-1525<br>FIXED<br>MOBILE except aeronautical mobile<br>MOBILE-SATELLITE (space-to-Earth) 5.348 5.348A 5.348B 5.351A<br><br>5.341 5.342 | 1518-1525<br>FIXED<br>MOBILE 5.343<br>MOBILE-SATELLITE (space-to-Earth) 5.348 5.348A 5.348B 5.351A<br><br>5.341 5.344 | 1518-1525<br>FIXED<br>MOBILE<br>MOBILE-SATELLITE (space-to-Earth) 5.348 5.348A 5.348B 5.351A<br><br>5.341 | | | |

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**United States (US) Footnotes**

* * * * *

US84 In the band 1435–1525 MHz, low power auxiliary stations may be authorized on a secondary basis, subject to the terms and conditions set forth in 47 CFR part 74, subpart H.

* * * * *

## PART 15—RADIO FREQUENCY DEVICES

■ 3. The authority citation for part 15 continues to read as follows:

**Authority:** 47 U.S.C. 154, 302, 303, 304, 307, 336, 554a and 549.

■ 4. Section 15.37 is amended by adding reserved paragraphs (i) and (j) and adding paragraph (k) to read as follows:

### § 15.37 Transition provisions for compliance with the rules.

* * * * *

(i) [Reserved]

(j) [Reserved]

(k) *Disclosure requirements for unlicensed wireless microphones capable of operating in the 600 MHz service band.* Any person who manufactures, sells, leases, or offers for sale or lease, unlicensed wireless microphones that are capable of operating in the 600 MHz service band, as defined in this part, three months following issuance of the Channel Reassignment Public Notice, as defined in section 73.3700(a)(2) of this chapter, is subject to the following disclosure requirements:

(1) Such persons must display the consumer disclosure text, as specified by the Consumer and Governmental Affairs Bureau, at the point of sale or lease of each such unlicensed wireless microphone. The text must be displayed in a clear, conspicuous, and readily legible manner. One way to fulfill the requirement in this section is to display the consumer disclosure text in a prominent manner on the product box by using a label (either printed onto the box or otherwise affixed to the box), a sticker, or other means. Another way to fulfill this requirement is to display the text immediately adjacent to each unlicensed wireless microphone offered for sale or lease and clearly associated with the model to which it pertains.

(2) If such persons offer such unlicensed wireless microphones via direct mail, catalog, or electronic means, they shall prominently display the consumer disclosure text in close proximity to the images and descriptions of each such unlicensed wireless microphone. The text should be in a size large enough to be clear, conspicuous, and readily legible, consistent with the dimensions of the advertisement or description.

(3) If such persons have Web sites pertaining to these unlicensed wireless microphones, the consumer disclosure text must be displayed there in a clear, conspicuous, and readily legible manner (even in the event such persons do not sell unlicensed wireless microphones directly to the public).

(4) The consumer disclosure text described in paragraph (k)(1) of this section is set forth as an appendix to this section.

* * * * *

### § 15.216 [Removed and Reserved]

■ 5. Section 15.216 is removed and reserved.

## PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTION SERVICES

■ 6. The authority citation for part 74 continues to read as follows:

**Authority:** 47 U.S.C. 154, 302a, 303, 307, 309, 336, and 554.

■ 7. Section 74.801 is amended by adding in alphabetical order definitions for ''600 MHz duplex gap*,''* . ''600 MHz guard bands*,''* ''600 MHz service band*,'' and* ''Spectrum Act'' *to read as follows:*

### § 74.801 Definitions

*600 MHz duplex gap.* An 11 megahertz guard band that separates part 27 600 MHz service uplink and downlink frequencies, in accordance with the terms and conditions established in GN Docket No. 12–268, pursuant to section 6403 of the Spectrum Act.

*600 MHz guard bands.* Designated frequency bands that prevent interference between licensed services in the 600 MHz service band and either the television bands or channel 37, in accordance with the terms and conditions established in GN Docket No. 12–268, pursuant to section 6403 of the Spectrum Act.

*600 MHz service band.* Frequencies that will be reallocated and reassigned for 600 MHz band services as determined by the outcome of the auction conducted pursuant to part 27, in accordance with the terms and conditions established in GN Docket No. 12–268, pursuant to section 6403 of the Spectrum Act

**Note to definitions of *600 MHz duplex gap, 600 MHz guard bands,* and *600 MHz service band:*** The specific frequencies will be determined in light of further proceedings pursuant to GN Docket No. 12–268 and the rules will be updated accordingly pursuant to a future public notice.

* * * * *

*Spectrum Act.* Title VI of the Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. 112–96).

* * * * *

■ 8. Section 74.802 is amended by revising paragraphs (a) and (b)(2) to read as follows:

### § 74.802 Frequency assignment.

(a)(1) Frequencies within the following bands may be assigned for use by low power auxiliary stations:

26.100–26.480 MHz
54.000–72.000 MHz
76.000–88.000 MHz
161.625–161.775 MHz (except in Puerto Rico or the Virgin Islands)
174.000–216.000 MHz
450.000–451.000 MHz
455.000–456.000 MHz
470.000–488.000 MHz
488.000–494.000 MHz (except Hawaii)
494.000–608.000 MHz
614.000–698.000 MHz
941.500–952.000 MHz
952.850–956.250 MHz
956.45–959.85 MHz
1435–1525 MHz
6875.000–6900.000 MHz
7100.000–7125.000 MHz

(2) [Reserved]

(b) * * *

(2) Low power auxiliary stations may operate closer to co-channel TV broadcast stations than the distances specified in paragraph (b)(1) of this section provided that such operations either—

(i) Are coordinated with TV broadcast stations that could be affected by the low power auxiliary station operation, and coordination is completed prior to operation of the low power auxiliary station; or

(ii) Are limited to an indoor location that is not being used for over-the-air television viewing, and the following conditions are met with respect to the TV channel used: The TV signal falls below a threshold of −84 dBm over the entire channel; the signal is scanned across the full 6 megahertz channel where the wireless microphones would be operated; and to the extent that directional antennas are used, they are rotated to the place of maximum signal.

* * * * *

■ 9. Section 74.803 is amended by adding paragraphs (c) and (d) to read as follows:

### § 74.803 Frequency selection to avoid interference.

* * * * *

(c) In the 941.500–952.000 MHz, 952.850–956.250 MHz, 956.45–959.85

MHz, 6875.000–6900.000 MHz, and 7100.000–7125.000 MHz bands low power auxiliary station usage is secondary to other uses (*e.g.* Aural Broadcast Auxiliary, Television Broadcast Auxiliary, Cable Relay Service, Fixed Point to Point Microwave) and must not cause harmful interference. Applicants are responsible for selecting the frequency assignments that are least likely to result in mutual interference with other licensees in the same area. Applicants must consult local frequency coordination committees, where they exist, for information on frequencies available in the area. In selecting frequencies, consideration should be given to the relative location of receive points, normal transmission paths, and the nature of the contemplated operation.

(d) In the 1435–1525 MHz band, low power auxiliary stations (LPAS) are limited to operations at specific fixed locations that have been coordinated with the frequency coordinator for aeronautical mobile telemetry, the Aerospace and Flight Test Radio Coordinating Committee. LPAS devices must complete authentication and location verification before operation begins, employ software-based controls or similar functionality to prevent devices in the band from operating except in the specific channels, locations, and time periods that have been coordinated, and be capable of being tuned to any frequency in the band. Use is limited to situations where there is a need to deploy large numbers of LPAS for specified time periods, and use of other available spectrum resources is insufficient to meet the LPAS licensee's needs at the specific location. All LPAS devices operating in a particular area in the band may have access to no more than 30 megahertz of spectrum in the band at a given time.

■ 10. Section 74.831 is revised to read as follows:

**§ 74.831 Scope of service and permissible transmissions.**

The license for a low power auxiliary station authorizes the transmission of cues and orders to production personnel and participants in broadcast programs, motion pictures, and major events or productions and in the preparation therefor, the transmission of program material by means of a wireless microphone worn by a performer and other participants in a program, motion picture, or major event or production during rehearsal and during the actual broadcast, filming, recording, or event or production, or the transmission of comments, interviews, and reports from the scene of a remote broadcast. Low power auxiliary stations operating in the 941.5–952 MHz, 952.850–956.250 MHz, 956.45–959.85 MHz, 6875–6900 MHz, and 7100–7125 MHz bands may, in addition, transmit synchronizing signals and various control signals to portable or hand-carried TV cameras which employ low power radio signals in lieu of cable to deliver picture signals to the control point at the scene of a remote broadcast.

■ 11. Section 74.832 is amended by revising paragraphs (a)(6) and (d) to read as follows:

**§ 74.832 Licensing requirements and procedures.**

(a) * * *

(6) Licensees and conditional licensees of stations in the Broadband Radio Service as defined in section 27.1200 of this chapter, or entities that hold an executed lease agreement with a Broadband Radio Service or Educational Broadband Service licensee.

* * * * *

(d) Cable television operations, motion picture and television program producers, large venue owners or operators, and professional sound companies may be authorized to operate low power auxiliary stations in the bands allocated for TV broadcasting, the 941.500–952.000 MHz band, the 952.850–956.250 MHz band, the 956.45–959.85 MHz band, the 1435–1525 MHz band, the 6875–6900 MHz band, and the 7100–7125 MHz band. In the 6875–6900 MHz and 7100–7125 MHz bands, entities eligible to hold licenses for cable television relay service stations (see section 78.13 of this chapter) shall also be eligible to hold licenses for low power auxiliary stations.

* * * * *

■ 12. Section 74.851 is amended by revising the section heading and paragraph (i) and adding paragraphs (j), (k), and (l) to read as follows:

**§ 74.851 Certification of equipment; prohibition on manufacture, import, sale, lease, offer for sale or lease, or shipment of devices that operate in the 700 MHz Band or the 600 MHz Band; labeling for 700 MHz or 600 MHz band equipment destined for non-U.S. markets; disclosures.**

* * * * *

(i) Nine months after the release of the Commission's Channel Reassignment Public Notice issued pursuant to Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, Report and Order, GN Docket No. 12–268, 29 FCC Rcd 6567 (2014), applications for certification shall no longer be accepted for low power auxiliary stations or wireless video assist devices that are capable of operating in the 600 MHz service band or the 600 MHz guard bands, or for low power auxiliary stations that are capable of operating in the 600 MHz duplex gap unless the operations are limited to the four megahertz segment from one to five megahertz above the lower edge of the 600 MHz duplex gap.

(j) Eighteen months after the release of the Commission's Channel Reassignment Public Notice issued pursuant to Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, Report and Order, GN Docket No. 12–268, 29 FCC Rcd 6567 (2014), no person shall manufacture, import, sell, lease, offer for sale or lease, or ship low power auxiliary stations or wireless video assist devices that are capable of operating in the 600 MHz service band or the 600 MHz guard bands, or low power auxiliary stations that are capable of operating in the 600 MHz duplex gap unless the operations are limited to the four megahertz segment from one to five megahertz above the lower edge of the 600 MHz duplex gap. This prohibition does not apply to devices manufactured solely for export.

(k) Eighteen months after the release of the Commission's Channel Reassignment Public Notice issued pursuant to Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, Report and Order, GN Docket No. 12–268, 29 FCC Rcd 6567 (2014), any person who manufactures, sells, leases, or offers for sale or lease low power auxiliary stations or wireless video assist devices that are destined for non-U.S. markets and that are capable of operating in the 600 MHz service band or the 600 MHz guard bands, or low power auxiliary stations that are capable of operating in the 600 MHz duplex gap unless such operations are limited to the four megahertz segment from one to five megahertz above the lower edge of the 600 MHz duplex gap, shall include labeling and make clear in all sales, marketing, and packaging materials, including online materials, relating to such devices that the devices cannot be operated in the United States.

(l) *Disclosure requirements for low power auxiliary station and wireless video assist devices capable of operating in the 600 MHz service band.* Any person who manufactures, sells, leases, or offers for sale or lease low power auxiliary stations or wireless video assist devices that are capable of operating in the 600 MHz service band three months following issuance of the

Channel Reassignment Public Notice, as defined in section 73.3700(a)(2) of this chapter, is subject to the following disclosure requirements:

(1) Such persons must display the consumer disclosure text, as specified by the Consumer and Governmental Affairs Bureau, at the point of sale or lease of each such low power auxiliary station or wireless video assist device. The text must be displayed in a clear, conspicuous, and readily legible manner. One way to fulfill the requirement in this section is to display the consumer disclosure text in a prominent manner on the product box by using a label (either printed onto the box or otherwise affixed to the box), a sticker, or other means. Another way to fulfill this requirement is to display the text immediately adjacent to each low power auxiliary station or wireless video assist device offered for sale or lease and clearly associated with the model to which it pertains.

(2) If such persons offer such low power auxiliary stations or wireless video assist device via direct mail, catalog, or electronic means, they shall prominently display the consumer disclosure text in close proximity to the images and descriptions of each such low power auxiliary station or wireless video assist device. The text should be in a size large enough to be clear, conspicuous, and readily legible, consistent with the dimensions of the advertisement or description.

(3) If such persons have Web sites pertaining to these low power auxiliary stations or wireless video assist devices, the consumer disclosure text must be displayed there in a clear, conspicuous, and readily legible manner (even in the event such persons do not sell low power auxiliary stations or wireless video assist devices directly to the public).

(4) The consumer disclosure text described in paragraph (l)(1) of this section is set forth as an appendix to this section.

* * * * *

■ 13. Section 74.861 is amended by revising paragraphs (d)(1) through (3), adding paragraph (d)(4), revising (e)(1)(i) and (ii), and adding paragraphs (e)(7) and (i) to read as follows:

**§ 74.861 Technical requirements.**

* * * * *

(d) * * *

(1) For all bands except the 1435–1525 MHz band, the maximum transmitter power which will be authorized is 1 watt. In the 1435–1525 MHz band, the maximum transmitter power which will be authorized is 250 milliwatts. Licensees may accept the manufacturer's power rating; however, it is the licensee's responsibility to observe specified power limits.

(2) If a low power auxiliary station employs amplitude modulation, modulation shall not exceed 100 percent on positive or negative peaks.

(3) For the 26.1–26.480 MHz, 161.625–161.775 MHz, 450–451 MHz, and 455–456 MHz bands, the occupied bandwidth shall not be greater than that necessary for satisfactory transmission and, in any event, an emission appearing on any discrete frequency outside the authorized band shall be attenuated, at least, $43+10 \log^{10}$ (mean output power, in watts) dB below the mean output power of the transmitting unit. The requirements of this paragraph shall also apply to the applications for certification of equipment for the 944–952 MHz band until nine months after release of the Commission's Channel Reassignment Public Notice, as defined in section 73.3700(a)(2) of this chapter.

(4)(i) For the 941.5–952 MHz, 952.850–956.250 MHz, 956.45–959.85 MHz, 1435–1525 MHz, 6875–6900 MHz and 7100–7125 MHz bands, analog emissions within the band from one megahertz below to one megahertz above the carrier frequency shall comply with the emission mask in *Section 8.3.1.2 of the European Telecommunications Institute Standard ETSI EN 300 422–1 v1.4.2 (2011–08),.* Beyond one megahertz below and above the carrier frequency, emissions shall be attenuated 90 dB below the level of the unmodulated carrier.

(ii) For the 941.5–952 MHz, 952.850–956.250 MHz, 956.45–959.85 MHz, and 1435–1525 MHz bands, digital emissions within the band from one megahertz below to one megahertz above the carrier frequency shall comply with the emission mask in *Section 8.3.2.2 (Figure 4) of the European Telecommunications Institute Standard ETSI EN 300 422–1 v1.4.2 (2011–08.* Beyond one megahertz below and above the carrier frequency, emissions shall be attenuated 90 dB below the level of the unmodulated carrier.

(iii) In the 6875–6900 MHz and 7100–7125 MHz bands, digital emissions within the band from one megahertz below to one megahertz above the carrier frequency shall comply with the emission mask in *Section 8.3.2.2 (Figure 5) of the European Telecommunications Institute Standard ETSI EN 300 422–1 v1.4.2 (2011–08).* Beyond one megahertz below and above the carrier frequency, emissions shall be attenuated 90 dB below the level of the unmodulated carrier.

(iv) For the 944–952 MHz band, the requirements of this paragraph (d)(4) shall not apply to the applications for certification of equipment for that band until nine months after release of the Commission's Channel Reassignment Public Notice, as defined in section 73.3700(a)(2) of this chapter.

(e) * * *

(1) * * *

(i) 54–72, 76–88, and 174–216 MHz bands: 50 mW EIRP

(ii) 470–608 and 614–698: 250 mW conducted power

* * * * *

(7) Analog emissions within the band from one megahertz below to one megahertz above the carrier frequency shall comply with the emission mask in *Section 8.3.1.2 of the European Telecommunications Institute Standard ETSI EN 300 422–1 v1.4.2 (2011–08).* Digital emissions within the band from one megahertz below to one megahertz above the carrier frequency shall comply with the emission mask in *Section 8.3.2.2 (Figure 4) of the European Telecommunications Institute Standard ETSI EN 300 422–1 v1.4.2 (2011–08).* Beyond one megahertz below and above the carrier frequency, emissions shall be attenuated 90 dB below the level of the unmodulated carrier. The requirements of this paragraph (e)(7) shall not apply to applications for certification of equipment in these bands until nine months after release of the Commission's Channel Reassignment Public Notice, as defined in § 73.3700(a)(2) of this chapter.

* * * * *

(i) The materials listed in this section are incorporated by reference in this part. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of the approval, and notice of any change in these materials will be published in the **Federal Register**. All approved material is available for inspection at the Federal Communications Commission, 445 12th St. SW., Reference Information Center, Room CY–A257, Washington, DC 20554, (202) 418–0270 and is available from the sources below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(1) European Telecommunications Standards Institute, 650 Route des

Lucioles, 06921 Sophia Antipolis Cedex, France. A copy of the standard is also available at *http://www.etsi.org/deliver/etsi_en/300400_300499/30042201/01.03.02_60/en_30042201v010302p.pdf*.

(i) ETSI EN 300 422–1 V1.4.2 (2011–08): ''*Electromagnetic compatibility and Radio spectrum Matters (ERM); Wireless microphones in the 25 MHz to 3 GHz frequency range; Part 1: Technical characteristics and methods of measurement,*'' Copyright 2011, IBR approved for section 15.236(g).

(ii) [Reserved]

(2) [Reserved].

## PART 87—AVIATION SERVICES

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

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

■ 15. Section 87.303 is amended by revising paragraph (d)(1) to read as follows:

### § 87.303 Frequencies

* * * * *

(d)(1) Frequencies in the band 1435–1525 MHz are also available for low power auxiliary station use on a secondary basis.

* * * * *

## PART 90—PRIVATE LAND MOBILE RADIO SERVICES

■ 16. The authority citation for part 90 continues to read as follows:

**Authority:** Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), and 332(c)(7), and Title VI of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112–96, 126 Stat. 156.

■ 17. Section 90.265 is amended by revising paragraph (b) introductory text and (b)(1) and (3) and adding paragraph (f) to read as follows:

### § 90.265 Assignment and use of frequencies in the bands allocated for Federal use.

* * * * *

(b) The following frequencies are available for wireless microphone operations to eligibles in this part, subject to the provisions of this paragraph:

Frequencies (MHz)

169.445
169.475
169.505
170.245
170.275
170.305
171.045
171.075
171.105
171.845
171.875
171.905

(1) On center frequencies 169.475 MHz, 170.275 MHz, 171.075 MHz, and 171.875 MHz, the emission bandwidth shall not exceed 200 kHz. On the other center frequencies listed in this paragraph (b), the emission bandwidth shall not exceed 54 kHz.

* * * * *

(3) For emissions with a bandwidth not exceeding 54 kHz, the frequency stability of wireless microphones shall limit the total emission to within ±32.5 kHz of the assigned frequency. Emissions with a bandwidth exceeding 54 kHz shall comply with the emission mask in Section 8.3 of ETSI EN 300 422–1 v1.4.2 (2011–08).

* * * * *

(f) The materials listed in this section are incorporated by reference in this part. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of the approval, and notice of any change in these materials will be published in the **Federal Register**. All approved material is available for inspection at the Federal Communications Commission, 445 12th St. SW., Reference Information Center, Room CY–A257, Washington, DC 20554, (202) 418–0270 and is available from the sources below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(1) European Telecommunications Standards Institute, 650 Route des Lucioles, 06921 Sophia Antipolis Cedex, France. A copy of the standard is also available at *http://www.etsi.org/deliver/etsi_en/300400_300499/30042201/01.03.02_60/en_30042201v010302p.pdf*.

(i) ETSI EN 300 422–1 V1.4.2 (2011–08): ''*Electromagnetic compatibility and Radio spectrum Matters (ERM); Wireless microphones in the 25 MHz to 3 GHz frequency range; Part 1: Technical characteristics and methods of measurement,*'' Copyright 2011, IBR approved for section 15.236(g).

(ii) [Reserved]

(2) [Reserved]

[FR Doc. 2015–28778 Filed 11–16–15; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Parts 27 and 73

**[GN Docket No. 12–268; ET Docket Nos. 13–26 and 14–14; FCC 15–141]**

## Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document resolves the remaining technical issues affecting the operation of new 600 MHz wireless licensees and broadcast television stations in areas where they operate on the same or adjacent channels in geographic proximity. Specifically, the Commission adopted the methodology and the regulatory framework for the protection of both wireless services and broadcasting in the post-auction environment that it proposed in October 2014. The Commission affirms its decision regarding the methodology to be used during the incentive auction to predict inter-service interference between broadcasting and wireless services. The Commission also affirmed its decision declining to adopt a cap on the aggregate amount of new interference a broadcast television station may receive from other television stations in the repacking process.

**DATES:** Effective December 17, 2015, except for the amendments to §§ 27.1310 and 73.3700(b)(1)(iv)(B), which contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13, that are not effective until approved by the Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date once OMB approves.

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

**FOR FURTHER INFORMATION CONTACT:** Aspasia Paroutsas, 202–418–7285, *Aspasia.Paroutsas@fcc.gov,* Office of Engineering and Technology.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Third Report and Order and First Reconsideration Order,* GN Docket No. 12–268; ET Docket Nos. 13–26 and No. 14–14, FCC 15–141, adopted October 21, 2015 and released October 26, 2015. The full text of this document is available for inspection and copying during normal business hours in the

FCC Reference Center (Room CY–A257), 445 12th Street SW., Washington, DC 20554. The full text may also be downloaded at: *www.fcc.gov*.

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

**Synopsis**

1. In the *Third Report and Order* the Commission adopts a framework to govern the interference environment in the 600 MHz Band where wireless operations and television stations may operate on the same or adjacent channels in nearby areas following the incentive auction. The Commission establishes a zero percent threshold for allowable harmful interference from 600 MHz wireless services to television stations assigned to channels in the 600 MHz Band. In addition, the Commission requires 600 MHz wireless licensees to use the methodology in Bulletin OET–74 to predict potential interference to nearby co-channel or adjacent-channel television operations before deploying base stations, prohibits operation of wireless user equipment operating in the 600 MHz Band near these television stations' contours, and prohibits the expansion of television stations' contours that would result in additional impairments to wireless operations. The Commission also addresses the applicability of the ISIX Methodology previously adopted in other interference contexts, including between LPTV and TV translators and wireless operations, between television and wireless operations during the post-transition period, and in identifying impairments to wireless licenses along the borders with Canada and Mexico.

2. In the *First Order on Reconsideration,* the Commission rejects a number of petitions for reconsideration of the ISIX Methodology that the Commission previously adopted for use during the incentive auction to predict the extent that 600 MHz Band wireless licenses may be impaired due to interference to, and from, television stations in the 600 MHz Band. The Commission also made a number of adjustments to the ISIX Methodology to be consistent with the decisions made in the *Third Report and Order* regarding OET–74, to reflect recent Commission decisions, and to reflect updates and revisions of input values and settings of the ISIX software. The Commission also affirmed its previous decision to not adopt a cap on new-station-to-station interference in the television station repacking process during the incentive auction and declined to establish a cap on population loss resulting from a new channel assignment in the repacking process.

3. In the *Incentive Auction R&O,* 79 FR 48442, August 15, 2014, the Commission adopted a flexible band plan framework that accommodates market variation, that is, areas where broadcast stations are assigned to channels in the 600 MHz Band. Because the amount of spectrum repurposed through the incentive auction and the repacking process depends on broadcaster participation and other factors, market variation will allow the Commission to avoid limiting the amount of spectrum repurposed across the nation to what is available in the most constrained market. However, market variation creates the potential for inter-service interference (''ISIX'') because in markets where broadcast television stations are assigned to channels within the 600 MHz Band, television and wireless services will be operating in close geographic proximity on the same and/or adjacent frequencies. There are four scenarios of potential interference when broadcast television and wireless operations are co-channel or on adjacent channels in nearby areas: (1) A digital television (''DTV'') transmitter causing interference to a wireless base station (Case 1); (2) a DTV transmitter causing interference to wireless user equipment (Case 2); (3) a wireless base station causing interference to a DTV receiver (Case 3); and (4) wireless user equipment causing interference to a DTV receiver (Case 4).

4. In the *ISIX R&O,* 79 FR 76903, December 23, 2014, the Commission addressed potential interference between DTV stations and wireless service in areas with market variation. The *ISIX R&O* adopted a methodology for predicting inter-service interference during the incentive auction (''ISIX Methodology''), a methodology which necessarily is based on hypothetical 600 MHz Band network deployments, as the actual networks will not be deployed until after the auction. The companion *ISIX Further Notice,* 79 FR 76282, December 22, 2014, proposed a post-auction inter-service interference methodology for evaluating interference from wireless base stations to television reception, set forth in the Office of Engineering and Technology Bulletin No. 74 (''OET–74''). The *ISIX Further Notice* also proposed rules for preventing interference from wireless to broadcasting services on the same or adjacent channels in nearby markets in the Cases 3 and 4.

### *A. Protecting Broadcast Television Receivers From Inter-Service Interference*

#### 1. Threshold for Interference From Wireless Operations to Television Receivers in the 600 MHz Band

5. The Commission adopts a zero percent threshold for harmful interference from wireless operations to the reception of television station's signals in the 600 MHz Band. Under this standard, 600 MHz wireless licensees will not be permitted to cause harmful interference at any level within the noise-limited contour of a full power television station or the protected contour of a Class A television station to the degree it affects populated areas within those contours. The Commission finds that a zero percent threshold, with no rounding tolerance, is warranted in the post-auction environment. For the reasons discussed below, any interference standard other than zero presents practical difficulties given the multiple sources of potential interference to the reception of signals from television stations assigned to the 600 MHz Band and the continuing evolution of wireless networks. Furthermore, the Commission delegates authority to the Media Bureau to issue a Public Notice following completion of the incentive auction with the final contours of all television stations assigned to channels in the 600 MHz Band. The Public Notice will include the technical parameters by which the television station contours can be generated regardless of whether the station will remain on its pre-auction channel or has been reassigned to new a channel.

6. There will be numerous sources of potential interference to the reception of signals from television stations assigned to the 600 MHz Band because the five-megahertz wireless spectrum blocks will overlap in varying degrees with the six-megahertz television channels, creating the potential for multiple co- and adjacent-channel relationships between television stations and wireless operations in the same or nearby geographic areas. Moreover, wireless networks evolve over time with the deployment of additional base stations and the adjustment of base stations' technical parameters. Addressing the possibility of a television receiver receiving interference from multiple wireless networks that are continuously evolving presents significant practical difficulties, such as how to apportion the permitted interference among the

multiple sources of interference and how to monitor compliance as wireless networks evolve. Given the different interference environment that television stations will face in the 600 MHz Band, the Commission finds that it would be impractical, if not infeasible, to manage any interference percentage other than zero percent.

7. The Commission clarifies that the zero-percent interference threshold will prohibit 600 MHz wireless licensees from causing any interference to television receivers in any populated area of the noise-limited contour of a full power television station or the protected contour of a Class A television station. The Commission also adopts the proposal from the *ISIX Further Notice* to treat interference between television stations assigned in the 600 MHz Band as ''masking interference'' in evaluating wireless interference to a television station. Therefore, in a grid cell where masking interference to one television station from another television station is predicted, inter-service interference from wireless operations can be ignored.

2. Determining Potential Interference From Wireless Operations to DTV Receivers

a. Case 3: Interference to Television Receivers From Wireless Base Stations

8. *Adoption of OET–74.* The Commission adopts OET–74, as proposed in the *ISIX Further Notice,* with several modifications as described in more detail below. OET–74 is to be used following the incentive auction to predict interference to television receivers operating in the 600 MHz Band from co-channel and adjacent channel wireless base stations in nearby markets. The adopted OET–74 Bulletin is included below. The Commission rejects the National Association of Broadcaster's (NAB's) claim that the Spectrum Act limits our authority to require the use of OET–74 to address inter-service interference following the auction.

9. *D/U Ratio Adjustment.* The Commission adopts slightly revised desired/undesired (D/U) ratio thresholds from those proposed in the *ISIX Further Notice.* Under the methodology of OET–74, the D/U ratio is calculated at the population centroid in each two kilometer square cell in the television station's contour. This D/U ratio is compared to a threshold to determine if harmful interference is predicted to occur to DTV service in that cell. The D/U threshold is defined in OET–74 to include an adjustment factor ''α,'' which is dependent on the signal-to-noise ratio (S/N ratio) of the received television signal. The ''α'' factor in the D/U threshold is necessary to account for the effect of the television signal strength on the amount of interference that the television receiver can tolerate when the desired DTV signal is weak. When the television signal strength is weak (*i.e.,* closer to the noise floor), a lower amount of interference from the wireless base stations will impede television reception than if the television signal is stronger. CEA points out that for faint television signals, ''α'' increases exponentially under the proposed OET–74, which can result in a high D/U threshold that will require a large separation distance between wireless base stations and the television station's contour. To avoid such results and to conform OET–74 with the approach used in OET–69 and the Commission's rules, OET–74 as adopted will limit the use of the D/U adjustment factor ''α'' to situations where the signal-to-noise ratio of the desired DTV signal is greater than 16 dB and less than 28 dB. Specifically, the ''α'' factor will be limited to a maximum value of 8.

10. In addition, the Commission removes the ''α'' factor in the D/U threshold in OET–74 as adopted when there is no overlap between the DTV signal and LTE signal (adjacent channel) in order to be consistent with the approach followed in the Commission's rules for DTV-to-DTV interference. The Commission's rules specify a constant D/U threshold for DTV-to-DTV adjacent channel interference. Consequently, OET–74 will not use a D/U threshold that varies with ''α'' for adjacent channel LTE-to-DTV interference. Also, OET–74 will set the required D/U threshold for LTE-to-DTV interference to -33 dB because the ATSC receiver guidelines specify that DTV receivers should have this level of tolerance of adjacent channel DTV interference, and measurements have shown that actual DTV receivers do in fact meet or exceed this level of performance in the presence of adjacent channel LTE interference.

11. *Aggregate Interference.* OET–74 will incorporate the root sum square (RSS) method to predict the potential for aggregate interference to television receivers from multiple base stations for each co-channel or adjacent channel 600 MHz licensee. The methodology of OET–74, which is based on real-world network deployments, will allow for the aggregation of the field strength of interfering signals at the DTV receiver from the wireless base stations of a co-channel or adjacent channel 600 MHz wireless licensee. The Commission will not, however, require a 600 MHz wireless licensee to account for the aggregate interference generated by the wireless operations of other 600 MHz wireless licensees because it would require wireless licensees to incorporate each other's site-specific information into their OET–74 analysis.

12. *Intermodulation Interference.* The Commission rejects arguments that it should study further the impact of third order intermodulation interference (IM3) from wireless services and television signals to television receivers. CEA claims that tests it conducted indicate that IM3 interference from LTE and DTV operations into DTV receivers poses a substantial risk to DTV reception, not only for legacy receivers currently in the market but also for future receivers that may need to continue receiving frequencies also used for LTE operations due to market variation. CEA further argues that IM3 from two LTE signals is a distinct potential problem in the 600 MHz Band that has not been adequately analyzed. Based on the present record, further analysis of intermodulation effects, either from DTV and LTE signals or two LTE signals, is not warranted. The Commission is not aware of any intermodulation interference concerns between DTV stations, which currently do not have to protect for intermodulation interference. Indeed, as CEA acknowledges, providing larger exclusions for interference protection reduces the efficiency of spectrum use. Protection of DTV receivers from the combinations of signals that can produce IM3 interference would impose additional constraints on the repacking process that would impact the Commission's ability to clear spectrum for new uses in the incentive auction and limit use of the recovered spectrum.

13. The Commission does not expect that the potential for interference from intermodulation products from a DTV signal and an LTE signal or from two LTE signals will be significantly higher than that expected from two DTV signals. In addition, potential intermodulation interference can be mitigated through DTV receiver design, antenna reorientation, and other factors. In order to meet consumers' expectations, receiver manufacturers should design their products to operate without experiencing interference from signals permitted by the Commission's rules. To the extent that CEA and manufacturers believe that current models of DTV receivers are susceptible to IM3, the appropriate solution is for them to design their new products to be immune to such interference.

14. *''Error Code 3'' Messages.* When ''error code 3'' messages are returned by

the software used to implement the Longley-Rice propagation model, OET–74 will use the desired and undesired signal strengths determined by the Longley-Rice propagation model in evaluating the subject cell for potential interference. The Commission declines to adopt NAB's suggestion that when an ''error code 3'' warning is returned and the desired signal strength calculated by OET–74 is below 41 dBμV/m, the threshold of service, the calculated desired signal strength be replaced with a signal strength equal to the threshold of service or threshold of service plus 3 dB. NAB's approach would be contrary to the goal of OET–74 which is to provide a methodology for predicting interference to television receivers based on the actual technical parameters of the television stations and wireless networks.

15. *Other OET–74 Technical Issues.* The Commission rejects NAB's contention that it should evaluate interference to the reception of Class A station's signals using a one-kilometer grid instead of the two-kilometer grid proposed in OET–74 so as to be ''consistent with current practice.'' Using a different grid size for Class A stations than for full power stations would be inconsistent with the Commission's repacking methodology and would create a layer of unnecessary complexity for the ISIX and OET–74 calculations. Accordingly, the Commission will use a two-kilometer grid for the ISIX and OET–74 calculations for both full power and Class A stations.

16. The Commission also rejects NAB's suggestion that OET–74 consider interference in all cells, and not only the populated cells. OET–74 will consider interference harmful only if the D/U ratio is below the threshold in a cell containing population.

17. In addition, the Commission rejects NAB's argument that OET–74 should not rely on manufacturers' published antenna patterns for wireless base stations. According to NAB, the manufacturers' published patterns may suggest unrealistically superior performance, while the wireless licensee may adjust the antenna after installation to manage coverage or interference conditions, or the antenna alignment during installation may be imprecise. While the Commission is cognizant that wireless base station antenna installations may vary from the antenna manufacturer's specified patterns or may be misaligned, it sees no reason to modify the manufacturer's specified wireless base station antenna patterns based on NAB's assumptions, which may or may not be more accurate for any given base station installation.

18. The Commission disagrees with Cohen, Dippell, and Everist, P.C.'s (''CDE'') claim that the FCC has not forecasted the potential interference to television receivers in cases where five megahertz 600 MHz licenses are aggregated. Given the DTV receiver performance measurements in the record and the fact that OET–74 is applicable to aggregated channels, CDE fails to articulate the need for additional testing of the effects of inter-service interference where five megahertz wireless licenses are aggregated. Nevertheless, based on examination of the record, the Commission concludes that the proposal for a separate analysis for each frequency overlap when two five-megahertz blocks are aggregated into a ten megahertz block would require additional effort by the wireless licensee without providing increased protection for DTV signal reception compared with a combined analysis of aggregated five megahertz blocks. For this reason, OET–74 will require that only a single interference analysis be performed when five megahertz blocks are aggregated. Therefore, in cases of aggregated wireless blocks the OET–74 analysis will be adjusted to reflect the amount of spectral overlap between the aggregated wireless signal and the DTV channel and the effective radiated power (''ERP'') as described. When the aggregated wireless signal completely overlaps the DTV channel, the analysis will use the values in the OET–74 tables associated with a spectral overlap of five megahertz and the ERP that is the portion of the power in the aggregated wireless signal that overlaps the six megahertz television channel. When the aggregated wireless signal overlaps the DTV channel by five megahertz or less, the analysis will use the values in the OET–74 tables associated with the amount of spectral overlap and the ERP of the overlapping wireless five megahertz block (*i.e.* the analysis will ignore the other five megahertz blocks of the aggregated signal). When the aggregate wireless signal is adjacent to the DTV channel (*i.e.* no overlap), the interference analysis will use the values in the OET–74 tables associated with the five megahertz block that is closest to the adjacent DTV channel and the ERP of that block. A wireless licensee with non-contiguous spectrum blocks will be required to conduct a separate OET–74 interference analysis for each spectrum block. In addition, a wireless licensee that is adjacent or co-channel to multiple DTV stations, will have to perform separate OET–74 interference analysis for each of the DTV stations.

b. Case 4: Interference to Television Receivers From Wireless User Equipment

19. The Commission adopts fixed geographic separation distances for Case 4. Specifically, 600 MHz wireless licensees will be required to limit the service area of their wireless networks so that wireless user equipment (*i.e.,* mobile and portable devices) will not operate within the contour or within a set distance from the contour of a co-channel or adjacent channel television station. As proposed in the *ISIX Further Notice,* the Commission adopts a separation distance of five kilometers for co-channel operations, and one-half kilometer for adjacent channel operations. Therefore, wireless licenses that will be co-channel or adjacent channel to a television station in the 600 MHz Band uplink spectrum will have impairments that cover the area of the station's contour and an additional five kilometers if the television station is co-channel or one-half kilometer if the television station is adjacent channel to the wireless operations. The separation distance for adjacent channel operation will only apply to the first adjacent channel. Consequently, wireless user equipment may be operated within the contour of a television station if there is a frequency separation of at least six megahertz or more between the wireless spectrum block edge and a television channel edge.

3. Obligations of 600 MHz Licensees in Markets With Variation

a. Requirements on Wireless Base Station Deployment

20. As proposed in the *ISIX Further Notice,* the Commission will (1) prohibit a 600 MHz wireless licensee from operating base stations within the contour of a co-channel or adjacent-channel full power and Class A television station, (2) require the 600 MHz wireless licensee to use OET–74 to predict interference to television receivers within such a station's contour prior to deploying base stations within a specified culling distance of the station's contour, and (3) prohibit operating base stations within that distance if harmful interference is predicted. The culling distances are specified in OET–74 and are based on the spectral overlap between wireless operations and television operations, and the power and antenna height of wireless base stations.

21. The Commission finds that prohibiting wireless base stations from

operating within the contours of co-channel and adjacent channel DTV stations is an appropriate safeguard for preventing interference to television receivers. The Commission also finds that requiring the use of OET–74 to identify potential interference from base stations located within the culling distance, and prohibiting operation of base stations within that distance if harmful interference is predicted, will ensure that television stations assigned to channels in the 600 MHz Band are not subject to harmful interference from 600 MHz Band wireless operations following the auction.

22. The Commission declines CTIA's request that the required use of OET–74 apply only to 600 MHz wireless licenses that have been formally designated as impaired during the incentive auction. Rather, as proposed, the OET–74 analysis must be performed for any base station located within the culling distance, even if the license was not identified as impaired during the auction. Qualified forward auction bidders will be provided information about the degree of impairment to the license, but such impairments will be estimated using the ISIX Methodology based on assumptions of a hypothetical wireless network deployment. Post-auction, the Commission's inter-service interference methodology will be based on the actual interference environment to protect DTV receivers. The Commission notes that qualified forward auction bidders will be able to determine prior to bidding whether they will be subject to regulatory requirements for a particular license because it will provide them with specific information about the television stations that will potentially cause impairments to wireless licenses (including the facility ID) prior to each stage of the auction.

23. The Commission rejects CTIA's claims that the OET–74 methodology is burdensome and impractical. A new OET–74 analysis will be required only if a base station modification could result in an increase in energy in the direction of a full power or Class A television station's contour. CTIA's concerns over the number of base stations subject to the OET–74 analysis, especially with the deployment of small cell architectures, are exaggerated. Antennas at lower power and lower height as found in small cell architectures result in shorter culling distances, as small as three kilometers in some cases, thereby reducing the likelihood that an OET–74 analysis will have to be performed for small cell antennas.

24. The Commission will require a 600 MHz wireless licensee to retain the latest copy of its OET–74 interference analysis for each co-channel or adjacent channel partial economic area (''PEA'') license area where any of its base stations fall within the specified OET–74 culling distances. The wireless licensee will be required to make this analysis available for inspection by the Commission at any time and to make this analysis available to a television station upon request when there are complaints of interference either from the subject television station or a station viewer. The Commission rejects NAB's request that wireless licensees be required to send all of their OET–74 analyses to all potentially affected broadcasters. The Commission finds that requiring wireless licensees to retain their most recent OET–74 analyses, which they may store electronically, and make them available in cases of interference complaints will more efficiently assist in the investigation and resolution of any complaints.

b. Elimination of Actual Interference to Broadcast Television Stations in the 600 MHz Band

25. The Commission adopts the proposal to require wireless licensees to eliminate any actual harmful interference to television reception within the contours of a full power or Class A television station in the 600 MHz Band, even if OET–74 did not predict such interference. The Commission also adopts the proposal for handling such interference incidents. As proposed in the *ISIX Further Notice,* a television station operating in the 600 MHz Band that experiences harmful interference from co-channel or adjacent channel wireless operations must first contact the wireless licensee to resolve the issue. The wireless licensee must provide to the television station the latest OET–74 analysis showing that no harmful interference was predicted to occur in the specific geographic area at issue. Wireless licensees and television stations are required to cooperate in good faith to resolve any disputes, so as not to unreasonably disrupt wireless and broadcast operations. In the event the parties do not reach resolution, the broadcaster can submit a claim of harmful interference to the Commission.

26. The Commission declines CDE's requests that it create a toll-free number and a Web site for consumers to report potential inter-service interference problems or that it create an interference handbook that demonstrates how a television viewer may face interference. Instead, the Commission will rely on the framework described above, which requires television stations experiencing interference problems to contact wireless licensees to resolve the potential interference issues.

c. Effect of Interference-Related Restrictions on Wireless Licenses

27. A 600 MHz wireless licensee will hold a license for its entire PEA service area, but its operations will be limited only to those portions of the PEA where the licensee will not cause harmful interference to the reception of signals from television stations assigned to the 600 MHz Band consistent with the standards set forth above.

28. As discussed in the *Incentive Auction R&O,* 600 MHz licensees will be required to meet the 600 MHz Band interim and final build-out requirements, except that they may show they are unable to operate in areas where they may cause harmful interference to the reception of the signals of television stations that remain in the 600 MHz Band due to market variation. The same exception to interim and final build-out requirements will apply to cases where 600 MHz licensees receive harmful interference from television stations assigned to channels in the 600 MHz Band. The Commission adopts its proposal to require wireless licensees to use the ISIX Methodology it adopted for use during the auction for prediction of interference in the Case 1, 2 and 4 scenarios and the methodology in OET–74 for the Case 3 interference scenario to demonstrate that they cannot serve the entire PEA service area for purposes of fulfilling the build-out requirements of their license. If a licensee is not able to serve its entire license area, it must demonstrate why certain areas are excluded from its service area due to impairments when it files its construction notification. If the impairing television station ceases to operate before the construction benchmarks, the wireless licensee will be permitted to use the entire license area, and will be obligated to serve the area that was previously restricted in demonstrating that it has met its build-out requirements.

*B. Protecting Wireless Licensees in the 600 MHz Band from Inter-Service Interference*

29. In this section, the Commission adopts rules to ensure that 600 MHz wireless licenses obtained in the forward auction do not experience additional impairments following the incentive auction.

1. Limitation on Expanding 600 MHz Broadcast Television Stations' Contour

30. The Commission limits full-power and Class A television stations assigned to channels in the 600 MHz Band from expanding their noise-limited and protected contours, respectively, if doing so would increase the impairments to co-channel or adjacent channel 600 MHz wireless licenses, unless an agreement is reached with the co-channel or adjacent channel wireless licensee allowing for such expansion. For purposes of this limitation, impairments refer to both additional interference from a television station anywhere in the 600 MHz Band in a PEA (Cases 1 and 2), and to any increased restriction on wireless operations within a PEA in order to avoid causing harmful interference to television receivers within a television station's expanded contour (Cases 3 and 4). For purposes of this limitation, a television station's baseline contours are those set forth in its initial post-auction construction permit application. As the Commission stated in the *Incentive Auction R&O,* it will carefully consider requests for waiver of the limitation in extraordinary circumstances.

31. CEA argues for a set distance between the edge of a wireless license area and the contours of a co-channel or adjacent channel television station beyond which the television station would be allowed to expand. The Commission rejects this proposal because the appropriate distance would depend largely on factors like transmitted power, antenna height, and antenna pattern, as well as terrain and frequency overlap, that vary by station. However, if the distance between the proposed expanded contour and a co-channel or adjacent channel wireless licensee's service area is greater than 500 kilometers, the television station will not be required to make a showing that its expanded contour does not cause additional impairments to the wireless operations.

2. Predicting Potential Interference From LPTV or TV Translator Into Wireless Service

32. As set forth in the *Incentive Auction R&O,* LPTV and TV translator stations in the 600 MHz Band may continue operating indefinitely unless a 600 MHz wireless licensee provides advance notice that it intends to commence operations and that the LPTV or TV translator station is likely to cause harmful interference to the wireless operations, based on the methodology the Commission adopts to prevent inter-service interference. As proposed in the *ISIX Further Notice,* 600 MHz wireless licensees will use the ISIX Methodology, as modified in the *First Order on Reconsideration,* for predicting interference to their operations from LPTV and TV translator stations for purposes of providing these stations with advance displacement notice.

33. For this analysis, 600 MHz licensees will use the threshold values for the prediction of interference from full power television to wireless operations from the ISIX Methodology. With regard to adjacent channel interference, LPTV and TV translator stations are allowed to operate using either the same emission mask as a full power station or one of the other two alternative emission masks specified in the Commission's rules. The Commission analyzed the frequency dependent rejection (''FDR'') performance of wireless receivers in the presence of DTV signals using the three different emission masks and found that there is only a 1 dB difference in the threshold values for adjacent channel interference to the wireless service across the three masks, for both wireless base stations and user equipment. The Commission does not find this 1 dB difference to be significant enough to warrant using separate thresholds for each emission mask option. Therefore, the Commission adopts the same field strengths for co-channel and adjacent channel emissions from LPTV and TV translator stations to wireless service as the ISIX Methodology provides for full power television stations. The Commission will also use the antenna elevation patterns for LPTV and TV translator stations in the Consolidated Database System (CDBS) or LMS (Licensing and Management System), the successor system to CDBS. If CDBS/LMS does not include elevation pattern values for a given LPTV or TV translator station, the elevation pattern of these stations as they are defined in section 74.793(d) of the Commission's rules will apply. The Commission finds that the more conservative F(50,10) measure is appropriate when 600 MHz wireless licensees use the ISIX Methodology to predict if they will experience interference from LPTV or translator stations.

34. The Commission will require that interference from analog LPTV and TV translator stations be analyzed using *TVStudy's* capability to replicate an analog signal as an equivalent digital signal and analyze the station as though it were operating in digital. The interfering field strength of the ''replicated'' analog television signal should be treated the same as an interfering digital television signal when conducting the interference analysis.

*C. Inter-Service Interference During the Post-Auction Transition Period*

35. The Commission adopts its proposal in the *ISIX Further Notice* to protect full power and Class A television stations that have not yet relocated from the 600 MHz Band during the Post-Auction Transition Period in the same manner that it will protect stations that remain in or relocate to the 600 MHz Band. A wireless operator commencing operations before the end of the Post-Auction Transition Period must perform an OET–74 analysis when it intends to deploy base stations within the culling distance of a co-channel or adjacent channel full power or Class A television station that is operating in the 600 MHz Band to predict whether its wireless operations in all or part of its license area would cause harmful interference to the reception of signals from nearby television stations, regardless of whether these television stations will be relocated by the end of the Post-Auction Transition Period. Consistent with the requirements adopted, the wireless licensee must retain the latest copy of its OET–74 interference analysis, make this analysis available for inspection by the Commission at any time, and make this analysis available to a television station upon request when there are complaints of interference either from the subject television station or a station viewer. In addition, if there are co-channel or adjacent channel television stations in the wireless licensee's uplink spectrum, the wireless provider must limit its service area to ensure that user equipment does not operate within five kilometers of the contour when co-channel or within a half kilometer when adjacent channel. Consistent with the rules set forth, once a nearby full power or Class A station has transitioned from its pre-auction channel, the 600 MHz Band licensee need no longer limit its operations in order to protect the station from inter-service interference.

36. Television stations assigned to the 600 MHz Band in the repacking process may not actually relocate to their assigned channel until late in the Post-Auction Transition Period. However, the Commission will not permit wireless licensees to deploy networks in the period before the station relocates in areas that will potentially interfere with these television stations once they commence broadcasting. Consequently, television stations that have not yet constructed their new facilities will be protected from inter-service interference during the Post-Auction Transition

Period based on the contours specified in their initial post-auction construction permits. Therefore, a 600 MHz wireless licensee that wants to commence operations prior to the end of the Post-Auction Transition Period will have to protect television stations that are operating co-channel or adjacent channel at that time and television stations that will be operating co-channel or adjacent channel by the end of the Post-Auction Transition Period.

*D. Assessing Interference From and to International Broadcast Television Stations During the Auction*

37. The Commission adopts its proposal to use the ISIX Methodology to identify impairments to repurposed 600 MHz spectrum along the international borders during the auction. During the incentive auction, the ISIX Methodology will be used to predict interference from U.S. television stations to Canadian wireless operators (Cases 1 and 2). In accordance with the U.S.-Canada *Statement of Intent,* the ISIX Methodology will use F(50,10) signal strength predictions for the signals from U.S. television stations and will assume the Canadian wireless base stations are 50 meters above ground level. Even though the U.S. and Mexico have not reached an agreement on inter-service interference between television and wireless operations across the U.S.-Mexico border, coordination letters have been exchanged which provide a channel plan for the reassignment of broadcast television stations in the border region. Because the ISIX methodology is not designed for analog signals, and Canada and Mexico have not completed their digital transitions, the Commission will use *TVStudy's* capability to ''replicate'' a Canadian or Mexican analog signal as an equivalent digital signal and analyze the station as though it is transmitting a digital signal.

**Summary of the First Order on Reconsideration**

*A. ISIX Methodology*

38. In the *ISIX R&O,* the Commission adopted the ISIX Methodology for use during the incentive auction to predict the extent to which 600 MHz Band wireless licenses may be impaired due to potential interference to, and from, broadcast television stations assigned to the 600 MHz Band as a result of market variation. The Commission received several petitions for reconsideration regarding the ISIX Methodology.

39. In its Petition for Reconsideration, NAB claims that the ISIX Methodology will fail to predict wireless impairments ''with any useful degree of accuracy'' because wireless carriers will have to use a ''different methodology'' following the auction based on real-world deployments. NAB repeats its recommendation made in several of its filings in this proceeding that, instead of the ISIX Methodology, the Commission should use a fixed distance-based approach, because doing so would be ''far easier to implement and will not sacrifice meaningful spectral efficiency.'' The Commission denies NAB'S petition for reconsideration because NAB offers no basis to revisit its conclusion that the ISIX Methodology accommodates market variation in a more spectrally efficient manner than a fixed distance-based approach and disagree with NAB's claim that the decision to use a different methodology to predict inter-service interference after the auction calls into question the accuracy of the ISIX Methodology for predicting impairments during the auction. NAB also claims that the base station antenna heights and powers assumed in the ISIX Methodology are less than what is permitted by the Commission's rules and therefore understates the potential for interference. The Commission rejects this claim because it was fully considered and rejected when the ISIX R&O was adopted.

40. Sprint and NAB, sought reconsideration of the decision to use the F(50,50) statistical measure instead of the F(50,10) measure in the ISIX Methodology when estimating interference from television stations to wireless operations. The Commission denies Sprint's and NAB's Petitions for Reconsideration and affirms its conclusion that F(50,50) is an appropriate statistical measure for this purpose, whereas the F(50,10) measure is unnecessarily conservative. In any event, bidders in the forward auction will have the necessary information to make their own calculations of impairments based on any number of factors they wish to consider, including their choice of statistical parameter.

41. The Commission will revise the ISIX Methodology to reflect the adjustments to the D/U thresholds for the Case 3 interference scenario it adopted in the companion *Third Report and Order*. These values are not assumptions that will change once the wireless networks are deployed. Accordingly, there is no basis to have interference threshold values applied during the auction to determine impairments that differ from the interference threshold values applied after the auction to determine interference. Therefore, the Commission will update the interference threshold values in the ISIX Methodology to be consistent with the values adopted above.

42. The Commission also makes a number of miscellaneous changes to the ISIX Methodology. These changes were made to reflect updates and revisions of input values and software settings to improve functionality and to reflect the U.S.-Canada *Statement of Intent* and decisions the Commission made in the *Bidding Procedures PN,* 80 FR 61918, October 14, 2015. These changes are reflected in the Appendix D of the *Third Report and Order and First Order on Reconsideration* describing the ISIX Methodology:

- Updated references to the LPTV digital transition.
- Updated references to license categories which were adopted in the *Bidding Procedures PN.*
- Revised references to emission limits and receiver standards in paragraph 13 to reflect the use of the FCC's emission limits for DTV and wireless receiver performance standards published by 3GPP.
- Provided threshold values for inter-service interference calculations in the repacking process along the border regions. These values do not relate to the computation of impairments on 600 MHz licenses.
- Added an explanation in paragraph 31 that for Case 3, the base station transmitter azimuth pattern is assumed to be non-directional and is based on UHF DTV vertical pattern described in OET Bulletin No. 69, Table 8. However, the elevation pattern is assumed to be symmetrical above and below the maximum.
- Table 14 lists the *TVStudy* settings unique to the ISIX Methodology.
- In Table 15, the entry HAS_EPAT was changed from ''False'' to ''True'' because *TVStudy* will import the pattern in the XML scenario.
- Paragraph 38 updated to indicate that the elevation pattern for each base station must be imported in the XML file and lists the values for the symmetrical generic pattern.

*B. Request for Additional Protection in the Repacking Process*

43. In the *ISIX R&O,* the Commission declined to adopt a cap on the amount of total or aggregate new station-to-station interference that a broadcast station will be allowed to receive as a result of the repacking process. The Commission denies the petitions for reconsideration of CDE and NAB requesting reconsideration of this decision. Neither CDE nor NAB challenge the staff study that concluded that approximately 99 percent of

stations will not experience new interference above one percent or otherwise dispute the study's conclusion that stations are unlikely to be experience significant new interference as a result of the repacking process. The Commission explained in the *ISIX R&O* how an aggregate interference cap would deprive the repacking feasibility checker of its speed. CDE and NAB do not offer any reason to dispute this conclusion, nor do they propose a means of implementing an aggregate interference cap without compromising the speed of the bidding process.

44. Because radio signals propagate differently on different frequencies, the signal of a station reassigned to a different channel will generally not be receivable in precisely the same locations within a station's contour as it was in its original channel. In its *ex parte* filings prior to adoption of the *ISIX R&O,* NAB asked the Commission to address both station-to-station interference and population loss resulting from new channel assignments by adopting a cap on ''aggregate population loss,'' which the Commission refused to do on procedural grounds. NAB ask for reconsideration of the Commission's decision declining to adopt a cap on population loss resulting from new channel assignments in the repacking process. The Commission grants in part and denies in part NAB's petition for reconsideration. The Commission expects most stations will not lose viewers as a result of terrain loss resulting from new channel assignments. Even if some stations are predicted to lose viewers as a result of terrain loss resulting from new channel assignments, the Commission's final television channel assignment plan selection procedure includes optimization techniques to address this concern.

45. In the event some stations are predicted to lose viewers as a result of new channel assignments even after optimization techniques are applied, there will be post-auction solutions to address this situation. First, as adopted in the *Incentive Auction R&O,* a television station may request up to a one percent coverage contour increase as part of its initial post-auction construction permit application, subject to certain conditions. Second, the Commission amends its rules to provide that stations predicted to experience a loss in population served in excess of one percent as a result of the repacking process—either because of new station-to-station interference or terrain loss resulting from a new channel assignment (or a combination of both)—may file an application proposing an alternate channel or expanded facilities in a priority filing window, along with a limited number of other stations that have been assigned the same priority. Third, the Commission proposed in the *LPTV Third FNPRM* to allow a full power station that is predicted to experience a loss in its pre-auction digital service area as a result of its new channel assignment to seek authority to deploy a digital-to-digital replacement translator (''DTDRT'') to serve the loss area.

46. A cap on population loss resulting from new channel assignments as proposed by NAB would compromise the central objective of a successful auction to allow market forces to repurpose spectrum. NAB's proposed approach for incorporating its cap on population loss into the repacking process involves certain elements that are either infeasible or meaningless and, on the whole, would impede the Commission's ability to conduct a successful auction and thereby sacrifice the goal of repurposing spectrum.

*C. Use of TVStudy To Determine Coverage Area and Population Serviced by Television Stations*

47. The Commission denies Petitions for Reconsideration of the *Incentive Auction R&O* filed by the Affiliates Associations and CDE challenging the Commission's decision to use the *TVStudy* software and certain inputs in applying the methodology described in OET–69 to determine the coverage area and population served by television stations. The Commission explained in the *Incentive Auction R&O* why the *TVStudy* software and inputs are distinct from the OET–69 methodology and Affiliates Associations offer no basis to revisit this conclusion. Affiliates Associations and CDE take issue with the fact that, using identical inputs, *TVStudy* produces different results than previous versions of the software used to implement OET–69. The Spectrum Act mandates that the Commission use the ''methodology described in OET Bulletin 69,'' not particular software to implement that methodology or arrive at a pre-determined result. The Commission's decision to use software that is ''user-friendly and better adapted to handle the kinds of computations the Commission will need to conduct in the reverse auction and repacking process called for by the Spectrum Act'' is fully consistent with Congressional intent.

48. Affiliates Associations also claims that the *Incentive Auction R&O* ''fail[ed] to address'' losses in ''coverage area.'' The Commission's decision pertaining to preservation of ''coverage area'' was affirmed by the D.C. Circuit. Affiliates Associations offers no basis to revisit the Commission's approach to preserving ''coverage area.''

**Procedural Matters**

**Final Regulatory Flexibility Analysis**

49. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[1] an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice of Proposed Rule Making* (NPRM).[2] The Commission sought written public comment on the proposals in the *NPRM,* including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.[3]

*A. Need for, and Objectives of, the Rules*

50. In the *Incentive Auction R&O,* the Commission adopted a flexible band plan framework that accommodates market variation. Market variation occurs where broadcast stations remain on spectrum that is repurposed for wireless broadband under the 600 MHz Band Plan. In this *Third Report and Order and First Order on Reconsideration,* it adopted the framework proposed in the inter-service interference, Further Notice (*ISIX Further Notice*) to govern the interference environment in the new 600 MHz Band due to market variation.

51. The Commission adopted a number of measures to protect television reception for those television stations that will remain in the 600 MHz Band after the incentive auction. It adopted a zero percent threshold for interference from wireless operations to the reception of signals from television broadcast stations in the 600 MHz Band, which will prohibit 600 MHz wireless licensees from causing harmful interference at any level within the contour of a broadcast station. The Commission also adopted OET–74, a methodology for predicting interference to television receivers from wireless base stations. However, the Commission modified the D/U threshold used to determine if interference to television reception is occurring in OET–74 from

[1] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601 through 612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121, Title II, 110 Stat. 857 (1996).

[2] *See Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions,* GN Docket No. 12–268, ET Docket No. 13–26, ET Docket No. 14–14, Second Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 13071 (2014) (*ISIX R&O/FNPRM or ISIX R&O or ISIX Further Notice*).

[3] *See* 5 U.S.C. 604.

what was proposed in the ISIX Further Notice so that the threshold does not become unrealistically large when the television signal is weak. Wireless licensees will be allowed to deploy base stations within a specified culling distance of co-channel or adjacent channel television stations only where they can demonstrate using OET–74 that they will not cause harmful interference to television reception within the stations' contours. In addition, the Commission prohibits the operation of wireless user equipment within five kilometers of the contours of co-channel television stations and one-half kilometer of adjacent channel television stations. It will require wireless licensees to eliminate any actual harmful interference to the reception of signals from television station in the 600 MHz Band, even if such interference was not predicted using OET–74.

52. The Commission also adopted measures to protect the future operations of 600 MHz Band wireless licensees from television stations that remain in the 600 MHz band. It will prohibit broadcast television licensees who operate in the 600 MHz Band from expanding their noise-limited or protected contours if doing so would increase the potential for interference to a wireless licensee's service area or would result in additional impairments to the wireless licenses because of the obligations of the wireless licensee to protect television reception. The Commission also adopted the use of the ISIX Methodology specified in the *ISIX R&O,* as modified in the *First Order on Reconsideration,* for predicting when an LPTV or TV translator station will cause harmful interference to wireless operations. For this purpose, the ISIX Methodology will use the same threshold values for the prediction of interference from full power television to wireless operations as specified in the *ISIX R&O* and will use the F(50,10) statistical measure to predict the strength of the LPTV or TV translator signal.

53. Under the rules adopted in the *Incentive Auction R&O,* 600 MHz Band wireless licensees are required to meet interim and final build-out requirements, but the build-out requirements only apply to areas they are permitted to serve. The Commission will require 600 MHz wireless licensees to use the ISIX Methodology and/or OET–74 to demonstrate that they cannot meet build-out requirements for portions of the geographic area covered by their license.

54. U.S. television stations may cause interference to Canadian wireless operations after the incentive auction. For purposes of predicting these impairments during the incentive auction, the Commission adopts the use of the ISIX Methodology with adjustments to reflect an agreement reached with Canada.

55. In the *First Order on Reconsideration* the Commission considered a number of petitions for reconsideration filed in response to the *ISIX R&O.* It affirmed our decision to use the ISIX Methodology to predict inter-service interference between television and wireless services during the incentive auction. The Commission modified the ISIX Methodology adopted in the *ISIX R&O* by making the same adjustment to the D/U threshold used to determine if interference will occur to television reception as we did for OET–74. The Commission also affirmed its decisions declining to adopt a cap on the aggregate amount of new interference a broadcast television station may receive from other television stations in the repacking process and declining to adopt a cap on population loss that a television station may experience because of a new channel assignment in the repacking process. The Commission amended its rules to provide that a television station that will experience a loss in population served in excess of one percent as a result of the repacking process—either because of new station-to-station interference or terrain loss resulting from a new channel assignment (or a combination of both)—may file an application proposing an alternate channel or expanded facilities in a priority filing window. In response to a petition for reconsideration of the *Incentive Auction R&O,* the Commission affirmed its decision to use the TVStudy software and certain inputs in applying the methodology described in OET–69 to determine the coverage area and population served by television stations when making new channel assignments during the incentive auction.

*B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA*

56. There were no comments filed that specifically addressed the rules and policies proposed in the IRFA.

*C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration*

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

*D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply*

58. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.[4] The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' [5] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[6] A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.[7]

59. *Television Broadcasting.* This economic census category ''comprises establishments primarily engaged in broadcasting images together with sound. These establishments operate television broadcasting studios and facilities for the programming and transmission of programs to the public.'' [8] The SBA has created the following small business size standard for Television Broadcasting firms: Those having $38.5 million or less in annual receipts.[9] The Commission has estimated the number of licensed commercial television stations to be 1,388.[10] In addition, according to Commission staff review of the BIA Advisory Services, LLC's *Media Access Pro Television Database* on March 28, 2012, about 950 of an estimated 1,300 commercial television stations (or

[4] 5 U.S.C. 603(b)(3).

[5] 5 U.S.C. 601(6).

[6] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small business concern'' in 15 U.S.C. 632). Pursuant to the RFA, the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.'' 5 U.S.C. 601(3).

[7] Small Business Act, 15 U.S.C. 632 (1996).

[8] U.S. Census Bureau, *2012 NAICS Definitions: 515120 Television Broadcasting, http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=515120&search=2012* (last visited Mar. 6, 2014).

[9] 13 CFR 121.201 (NAICS code 515120) (updated for inflation in 2010).

[10] *See* FCC News Release, Broadcast Station Totals as of December 31, 2013 (rel. Jan. 8, 2014), *http://transition.fcc.gov/Daily_Releases/Daily_Business/2014/db0108/DOC-325039A1.pdf.*

approximately 73 percent) had revenues of $38.5 million or less.[11] The Commission therefore estimate that the majority of commercial television broadcasters are small entities.

60. The Commission notes, however, that in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included.[12] Our estimate, therefore, likely overstates the number of small entities that might be affected by our action because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, an element of the definition of ''small business'' is that the entity not be dominant in its field of operation. The Commission is unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any television station from the definition of a small business on this basis and is therefore possibly over-inclusive to that extent.

61. In addition, the Commission has estimated the number of licensed noncommercial educational (''NCE'') television stations to be 395.[13] These stations are non-profit, and therefore considered to be small entities.[14]

62. There are also 2,414 LPTV stations, including Class A stations, and 4,046 TV translator stations.[15] Given the nature of these services, we will presume that all of these entities qualify as small entities under the above SBA small business size standard.

63. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* 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 2007, there were a total of 939 establishments in this category that operated for part or all of the entire year. Of this total, 912 had less than 500 employees and 17 had more than 1000 employees. Thus, under that size standard, the majority of firms can be considered small.

64. *Audio and Video Equipment Manufacturing.* The SBA has classified the manufacturing of audio and video equipment under in NAICS Codes classification scheme as an industry in which a manufacturer is small if it has less than 750 employees. Data contained in the 2007 U.S. Census indicate that 492 establishments operated in that industry for all or part of that year. In that year, 488 establishments had fewer than 500 employees; and only 1 had more than 1000 employees. Thus, under the applicable size standard, a majority of manufacturers of audio and video equipment may be considered small.

65. *Wireless Telecommunications Carriers (except satellite).* The Census Bureau defines this category as follows: ''This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular phone services, paging services, wireless Internet access, and wireless video services.'' [16] The appropriate size standard under SBA rules is for the category Wireless Telecommunications Carriers (except Satellite). The size standard for that category is that a business is small if it has 1,500 or fewer employees.[17] For this category, census data for 2007 show that there were 1,383 firms that operated for the entire year.[18] Of this total, 1,368 firms had employment of 999 or fewer employees and 15 had employment of 1000 employees or more.[19] Similarly, according to Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, PCS, and Specialized Mobile Radio (''SMR'') Telephony services.[20] Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees.[21] Consequently, the Commission estimates that approximately half or more of these firms can be considered small. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

### *E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities*

66. Wireless licensees in the 600 MHz Band will be required to conduct an interference analysis using OET–74 before operating a base station within the culling distance of the contour of a co-channel or adjacent channel broadcast television station. They will also be required to conduct an OET–74 interference analysis when making a modification to such a base station that could result in an increase in energy in the direction of broadcast station's contour. The wireless licensee will be required to retain the latest copy of their OET–74 analysis for each base station that is within the culling distance of a co-channel or adjacent channel broadcast station. The wireless licensee will be required to make this analysis available for inspection by the Commission at any time and to make this analysis available to a television station upon request when there are complaints of interference either from the subject television station or a station viewer. Wireless licensees and television stations will cooperate in good faith to resolve any disputes, as not to unreasonably frustrate wireless and broadcast operations. In the event the parties do not reach resolution, a broadcaster can submit a claim of harmful interference to the Commission.

67. Wireless licensees in the 600 MHz Band will be prohibited from operating a base station within the contour of a co-channel or adjacent channel broadcast station. Wireless licensees will also be required to limit their coverage areas so that mobile and portable devices

[11] We recognize that BIA's estimate differs slightly from the FCC total given the information provided above.

[12] ''[Business concerns] are affiliates of each other when one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.'' 13 CFR 121.103(a)(1).

[13] *See* FCC News Release, Broadcast Station Totals as of December 31, 2013 (rel. Jan. 8, 2014), *http://transition.fcc.gov/Daily_Releases/Daily_Business/2014/db0108/DOC-325039A1.pdf.*

[14] *See generally* 5 U.S.C. 601(4), (6).

[15] *See* FCC News Release, Broadcast Station Totals as of December 31, 2013 (rel. January 8, 2014), *http://transition.fcc.gov/Daily_Releases/Daily_Business/2014/db0108/DOC-325039A1.pdf.*

[16] U.S. Census Bureau, *2012 NAICS Definitions: 517210 Wireless Telecommunications Carriers (except Satellite), http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=517210&search=2012* (last visited Mar. 6, 2014).

[17] 13 CFR 121.201 (NAICS code 517210).

[18] U.S. Census Bureau, Table No. EC0751SSSZ5, *Information: Subject Series—Establishment and Firm Size: Employment Size of Firms for the United States: 2007* (NAICS code 517210), *http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5.*

[19] *Id.* Available census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with 1000 employees or more.

[20] *See Trends in Telephone Service* at Table 5.3.

[21] *See id.*

maintain a minimum distance of five kilometers from a co-channel broadcast station's contour and 500 meters from an adjacent channel broadcast station's contour.

68. Wireless licensees will be required to eliminate any harmful interference that occurs to television reception within the contours of a co-channel or adjacent channel broadcast television station. This requirement to eliminate harmful interference applies even if the OET–74 analysis indicates that no harmful interference will occur.

69. A broadcast television station in the 600 MHz Band will not be allowed to expand its contour such that it would increase impairments to a wireless licensee either by causing additional interference to the wireless licensee's service area or because of the obligations of the wireless licensee to protect television reception, unless an agreement is reached with the wireless licensee allowing the expansion.

70. A wireless licensee that intends to commence operations will be required to use the ISIX Methodology adopted in the *ISIX R&O,* as modified in the *First Order on Reconsideration,* to determine if a LPTV or translator station will cause it harmful interference. The wireless licensee will then be able to send the required notification to the LPTV or translator station that will cause it harmful interference.[22]

71. Wireless licensees will use the ISIX Methodology or OET–74 to show that they are unable to operate in portions of their license area for purposes of satisfying their build-out requirements. They will use the ISIX Methodology for demonstrating harmful interference from co-channel and adjacent channel broadcast television stations to their base stations and user equipment as well as demonstrating harmful interference from wireless user equipment to television receivers. They will use OET–74 for demonstrating harmful interference from wireless base stations to television receivers.[23] If the impairing television station ceases to operate before the construction benchmarks, the wireless licensee will be permitted to use the entire license area, and will be obligated to serve the area that was previously restricted in demonstrating that it has met its build-out requirements.[24]

72. A television station that will experience a loss in population served in excess of one percent as a result of the repacking process—either because of new station-to-station interference or terrain loss resulting from a new channel assignment (or a combination of both)—may file an application proposing an alternate channel or expanded facilities in a priority filing window. Previously, our rules permitted a station to file an application in the priority filing window only when the greater than one percent loss in population served was from station-to-station interference.

*F. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

73. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[25]

74. Many of the reporting, recordkeeping, and compliance requirements we adopt here are designed to protect television broadcast stations and 600 MHz Band wireless licensees from harmful interference. Because many of these television broadcast stations and wireless licensees are small entities, the rules will protect the economic interest of small entities. Consequently, the effect of these rules on small entities can be viewed as a tradeoff between the compliance burdens of the rules on some small entities balanced against the interference protections supplied by the rules to other small entities. We conclude that the benefits of these rules in protecting small entities from interference is stronger than the compliance burdens that the rules place on small entities.

75. For example, the adopted rules require wireless licensees to conduct an OET–74 interference analysis before locating a base station within the culling distance of a co-channel or adjacent channel television broadcast station. This rule will impact those wireless licensees that are small entities by requiring them to perform the OET–74 analysis and potentially preventing them from constructing base stations in portions of their licensed service areas. However, this requirement will help prevent harmful interference to the reception of signals from co-channel and adjacent channel television broadcast stations, many of whom are small entities. As an alternative to requiring an OET–74 analysis, we could have specified an exclusion zone around a broadcast television station's contour that wireless base stations could not be located within to prevent interference to television reception. However, this would have excluded the base stations from a much larger area than the adopted rules because it would not have taken into account the effects that terrain has on signal propagation and the characteristics of the base stations such as transmitted power and antenna height. Requiring an OET–74 analysis instead of relying on an exclusion zone thereby enables the wireless licensee to use a greater portion of its licensed service area, which is of significant economic benefit to the wireless licensee.

76. As another example, the adopted rules prohibit television broadcast stations in the 600 MHz Band from expanding their contours in a way that will impair a wireless license by causing interference to a wireless licensee or because of a wireless licensee's obligation to protect television reception. This rule will impact television broadcast stations in the 600 MHz Band by preventing them from expanding their contours in the future, but the rule will protect the interests of wireless licensees by preventing impairments of their licenses.

77. Some of the rules adopted here provide a means to implement rules we have previously adopted. For example, in the *Incentive Auction R&O,* the Commission adopted rules requiring 600 MHz Band wireless licensees to meet build-out requirements.[26] While the previously adopted rules do not require wireless licensees to build-out their networks in areas that are impaired by either receiving interference from television broadcasters remaining in the band or because they will cause interference to television reception, the rules do not specify how the wireless

[22] The requirement that the LPTV or translator station that will cause a wireless licensee harmful interference cease operation within 120 days after receiving notification from a wireless licensee that is going to commence operations was adopted in the *Incentive Auction R&O. Incentive Auction R&O,* 29 FCC Rcd at 6834–6835, 6839–6841, paras. 657, 668–671.

[23] *Incentive Auction R&O,* 29 FCC Rcd at 6883, 684, paras. 778, 781; 47 CFR 1.946(d). The construction notification will have to be filed within 15 days of the relevant milestone certifying that it has met the applicable performance benchmark within its permitted boundaries.

[24] *Incentive Auction R&O,* 29 FCC Rcd at 6606, para. 86 n. 277.

[25] *See* 5 U.S.C. 603(c).

[26] *Incentive Auction R&O,* 29 FCC Rcd at 6877–78, para 764.

licensee will show what areas are impaired. For purposes of demonstrating impairments for the build-out requirements, the *Third Report and Order* will require 600 MHz wireless licensees to use the ISIX Methodology for showing interference from television broadcasters to wireless operations and for interference from wireless user equipment to television receivers and will require wireless licenses to use OET–74 to demonstrate interference to television receivers. This requirement will benefit 600 MHz Band wireless licensees by enabling them to exclude impaired locations of their licensed areas from the build-out requirements.

78. In the *Incentive Auction R&O,* we specified that LPTV and TV translator station in the 600 MHz band could continue to operate until a wireless licensee provided advance notice that it intends to commence operations and the LPTV or TV translator is likely to cause harmful interference. For purposes of providing this displacement notice, in the *Third Report and Order* the Commission specify that wireless licensees will use the ISIX Methodology to determine if the LPTV or TV translator stations will cause them interference for purposes of notifying the LPTV or TV translator stations. While this requirement will burden 600 MHz Band wireless licensees by requiring them to perform an ISIX Methodology interference study, it will benefit LPTV and TV translator licensees by allowing them to continue operating until their spectrum is actually needed by the wireless licensees. Consequently, this requirement represents a reasonable balancing between the interest of LPTV and translators, many of whom are small businesses, and 600 MHz Band wireless licensees, many of whom are also small licensees.

79. To minimize the burdens on small businesses that are required by the rules we are adopting that require OET–74 and ISIX Methodology interference analyses, we intend to make a version of our *TVStudy* software available that can perform these analyses. The software can be used on a computer that costs less than $2000 and is available free online at *http://data.fcc.gov/download/incentive-auctions/OET-69/.* Because we are making this software available, licensees will not need to develop their own software or contract with an engineering consultant to perform these interference analyses. To further reduce the compliance burden on 600 MHz Band wireless licensees, we will not require them to share their OET–74 interference analysis with television broadcasters unless there is an actual interference complaint. The wireless licensee will be able to store the OET–74 analysis electronically, which will reduce the record keeping and compliance cost to the wireless licensee.

80. Television stations that are relocated during the incentive auction may experience a change in coverage area due to terrain loss because of the different propagation characteristics at their new frequency. Television stations that experience a loss in population served in excess of one percent as a result of the repacking process—either because of new station-to-station interference or terrain loss resulting from a new channel assignment (or a combination of both)—will now be permitted to file an application proposing an alternate channel or expanded facilities in a priority filing window. This will benefit television stations that experience such a loss of population serviced.

81. Report to Congress: The Commission will send a copy of the *Third Report and Order and First Order on Reconsideration,* including this FRFA, in a report to Congress pursuant to the Congressional Review Act.[27] In addition, the Commission will send a copy of the *Third Report and Order and First Order on Reconsideration,* including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the *Third Report and Order and First Order on Reconsideration,* including this FRFA, to the Chief Counsel for Advocacy of the SBA.

## Ordering Clauses

82. Pursuant to the authority found in sections 1, 4, 301, 303, 307, 308, 309, 316, 319, 332, and 403 of the Communications Act of 1934, as amended, and sections 6402 and 6403 of Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96, 126 Stat. 156, 47 U.S.C. 151, 154, 301, 303, 307, 308, 309, 316, 319, 332, 403, 1452, and 1454, the *Third Report and Order and First Order on Reconsideration is adopted.* The Commission's rules *are hereby amended* as set forth in Appendix B.

83. The rules adopted herein *will become effective* December 17, 2015, except for Sections 27.1310 and 73.3700(b)(1)(iv)(B) of the rules which contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13, that are not effective until approved by the Office of Management and Budget (OMB). The Federal Communications Commission will publish a document in the **Federal Register** announcing OMB approval and the effective date of this rule.

[27] See 5 U.S.C. 801(a)(1)(A).

84. Pursuant to Section 405 of the Communications Act of 1934, as amended, 47 U.S.C. 405, and 1.429 of the Commission's rules, 47 CFR 1.429, the Petitions for Reconsideration of the *Second Report and Order* in GN Docket No. 12–268, ET Docket No. 13–26, and ET Docket No. 14–14 filed by Cohen, Dippell, and Everist, P.C. and by Sprint Corporation *are denied* to the extent described herein.

85. Pursuant to Section 405 of the Communications Act of 1934, as amended, 47 U.S.C. 405, and section 1.429 of the Commission's rules, 47 CFR 1.429, the Petition for Reconsideration of the *Second Report and Order* in GN Docket No. 12–268, ET Docket No. 13–26, and ET Docket No. 14–14 filed by the National Association of Broadcasters *is granted in part and denied in part* to the extent described herein.

86. Pursuant to Section 405 of the Communications Act of 1934, as amended, 47 U.S.C. 405, and 1.429 of the Commission's rules, 47 CFR 1.429, the Petitions for Reconsideration of the *Report and Order* in GN Docket No. 12–268 filed by ABC Television Affiliates Association, CBS Television Network Affiliates Association, FBC Television Affiliates Association, and NBC Television Affiliates and by Cohen, Dippell, and Everist, P.C. *are denied* to the extent described herein.

87. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Third Report and Order and First Order on Reconsideration* in GN Docket No. 12–268, ET Docket No. 13–26, and ET Docket No. 14–14, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

88. The Commission *shall send* a copy of this *Third Report and Order and First Order on Reconsideration* in GN Docket No. 12–268, ET Docket No. 13–26, and ET Docket No. 14–14 in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

## List of Subjects in 47 CFR Parts 27 and 73

Communications equipment, Radio, Television, Reporting and recordkeeping requirements.

Federal Communications Commission.

**Gloria J. Miles,**

*Federal Register Liaison Officer, Office of the Secretary.*

## Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 27 and 73 as follows:

## PART 27—MISCELLANEOUS WIRELESS COMMUNICATIONS SERVICES

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

**Authority:** 47 U.S.C. 154, 301, 302(a), 303, 307, 309, 332, 336, 337, 1403, 1404, 1451, and 1452, unless otherwise noted.

■ 2. Add an undesignated center heading and § 27.1310.to read as follows:

### Protection of Other Services

#### § 27.1310 Protection of Broadcast Television Service in the 600 MHz Band from Wireless Operations.

(a) Licensees authorized to operate wireless services in the 600 MHz band must cause no harmful interference to public reception of the signals of broadcast television stations transmitting co-channel or on an adjacent channel.

(1) Such wireless operations must comply with the D/U ratios in Table 5 in OET Bulletin No. 74, Methodology for Predicting Inter-Service Interference to Broadcast Television from Mobile Wireless Broadband Services in the UHF Band ([DATE]) (''*OET Bulletin No. 74*''). Copies of *OET Bulletin No. 74* may be inspected during normal business hours at the Federal Communications Commission, 445 12th St. SW., Dockets Branch (Room CY A09257), Washington, DC 20554. This document is also available through the Internet on the *FCC Home Page at http://www.fcc.gov.*

(2) If a 600 MHz band licensee causes harmful interference within the noise-limited contour or protected contour of a broadcast television station that is operating co-channel or on an adjacent channel, the 600 MHz band licensee must eliminate the harmful interference.

(b) A licensee authorized to operate wireless services in the 600 MHz downlink band:

(1) Is not permitted to deploy wireless base stations within the noise-limited contour or protected contour of a broadcast television station licensed on a co-channel or adjacent channel in the 600 MHz downlink band;

(2) Is required to perform an interference study using the methodology in *OET Bulletin No. 74* before deploying or operating wireless base stations within the culling distances specified in Tables 7–12 of *OET Bulletin No. 74* from the noise-limited contour or protected contour of such a broadcast television station;

(3) Is required to perform an interference study using the methodology in *OET Bulletin No. 74* when modifying a base station within the culling distances in Tables 7–12 of *OET Bulletin 74* that results in an increase in energy in the direction of co-channel or adjacent channel broadcast television station's contours;

(4) Is required to maintain records of the latest *OET Bulletin No. 74* study for each base station and make them available for inspection to the Commission and, upon a claim of harmful interference, to the requesting broadcasting television station.

(c) A licensee authorized to operate wireless services in the 600 MHz uplink band must limit its service area so that mobile and portable devices do not transmit:

(1) Co-channel or adjacent channel to a broadcast television station within that station's noise-limited contour or protected contour;

(2) Co-channel to a broadcast television station within five kilometers of that station's noise-limited contour or protected contour; and

(3) Adjacent channel to a broadcast television station within 500 meters of that station's noise-limited contour or protected contour.

(d) For purposes of this section, the following definitions apply:

(1) Broadcast television station is defined pursuant to § 73.3700(a)(1) of this chapter;

(2) Noise-limited contour is defined to be the full power station's noise-limited contour pursuant to § 73.622(e);

(3) Protected contour is defined to be a Class A television station's protected contour as specified in section 73.6010;

(4) Co-channel operations in the 600 MHz band are defined as operations of broadcast television stations and wireless services where their assigned channels or frequencies spectrally overlap;

(5) Adjacent channel operations are defined as operations of broadcast television stations and wireless services where their assigned channels or frequencies spectrally abut each other or are separated by up to 5 MHz.

## PART 73—RADIO BROADCAST SERVICES

■ 3. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336, and 339.

■ 4. Section 73.3700 is amended by revising paragraph (b)(1)(iv)(B) and adding paragraph (i) to read as follows:

#### § 73.3700 Post-Incentive Auction Licensing and Operation.

* * * * *

(b) * * *

(1) * * *

(iv) * * *

(B) The licensee of any broadcast television station that the Commission makes all reasonable efforts to preserve pursuant to section 6403(b)(2) of the Spectrum Act that is predicted to experience a loss in population served in excess of one percent as a result of the repacking process, either because of new station-to-station interference or terrain loss resulting from a new channel assignment (or a combination of both), will be afforded an opportunity to submit an application for a construction permit pursuant to paragraph (b)(2)(i) or (ii) of this section in the priority filing window required by paragraph (b)(1)(iv)(A) of this section.

* * * * *

(i) A broadcast television station licensed in the 600 MHz band, as that band is defined in section 27.5(l)—

(1) Shall not be permitted to modify its facilities, except as provided in paragraph (b)(1)(ii) of this section, if such modification will expand its noise limited service contour (in the case of a full power station) or protected contour (in the case of a Class A station) in such a way as to:

(i) Increase the potential of harmful interference to a wireless licensee which is co-channel or adjacent channel to the broadcast television station; or

(ii) Require such a wireless licensee to restrict its operations in order to avoid causing harmful interference to the broadcast television station's expanded noise limited service or protected contour;

(2) Shall be permitted to modify its facilities, even when prohibited by paragraph (i)(1) of this section, if all the wireless licensees in paragraph (i)(1) who either will experience an increase in the potential for harmful interference or must restrict their operations in order to avoid causing interference agree to permit the modification and the modification otherwise meets all the requirements in this part;

(3) For purposes of this section, the following definitions apply:

(i) Co-channel operations in the 600 MHz band are defined as operations of broadcast television stations and wireless services where their assigned

channels or frequencies spectrally overlap.

(ii) Adjacent channel operations are defined as operations of broadcast television stations and wireless services where their assigned channels or frequencies spectrally abut each other or are separated by up to 5 MHz.

[FR Doc. 2015–29239 Filed 11–16–15; 8:45 am]

BILLING CODE 6712–01–P

# Proposed Rules

Federal Register

Vol. 80, No. 221

Tuesday, November 17, 2015

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

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2015–4812; Directorate Identifier 2015–NM–034–AD]**

**RIN 2120–AA64**

### Airworthiness Directives; The Boeing Company Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 787–8 airplanes. This proposed AD was prompted by a report that certain center and outboard stowage bin modules were incorrectly installed. This proposed AD would require an inspection of the center and outboard stowage bin modules for missing parts, quick release pins that are not fully engaged, and parts that are installed in incorrect locations; and corrective actions if necessary. We are proposing this AD to detect and correct incorrectly installed center and outboard stowage bin modules that might not remain intact during an emergency landing, resulting in injuries to occupants and interference with airplane evacuation.

**DATES:** We must receive comments on this proposed AD by January 4, 2016.

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

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

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–4812.

### 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–2015–4812; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the ADDRESSES section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Stanley Chen, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917- 6585; fax: 425–917–6590; email: *stanley.chen@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the ADDRESSES section. Include ''Docket No. FAA–2015–4812; Directorate Identifier 2015–NM–034–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

### Discussion

We received a report that certain center and outboard stowage bin modules were incorrectly installed on Model 787–8 airplanes. The affected stowage bin modules had parts that were missing or incorrectly installed and quick release pins that were not fully engaged. The missing and incorrectly installed parts included quick release pins, load transfer bars, tie rods, quick release pin retainers, radial struts, and splice fittings. Missing or incorrectly installed parts affect the load capability of a stowage bin, and during an emergency landing that stowage bin might not remain intact. We are proposing this AD to detect and correct incorrectly installed center and outboard stowage bin modules that might not remain intact during an emergency landing, resulting in injuries to occupants and interference with airplane evacuation.

### Related Service Information Under 1 CFR Part 51

We reviewed the following Boeing service information. This service information describes procedures for inspecting the installation of the center and outboard stowage bin modules and doing corrective actions.

- Boeing Alert Service Bulletin B787–81205–SB250036–00, Issue 001, dated September 10, 2013.
- Boeing Alert Service Bulletin B787–81205–SB250039–00, Issue 001, dated October 8, 2013.
- Boeing Alert Service Bulletin B787–81205–SB250040–00, Issue 001, dated October 14, 2013.
- Boeing Alert Service Bulletin B787–81205–SB250041–00, Issue 001, dated October 18, 2013.
- Boeing Alert Service Bulletin B787–81205–SB250042–00, Issue 001, dated October 28, 2013.
- Boeing Alert Service Bulletin B787–81205–SB250043–00, Issue 001, dated November 4, 2013.

• Boeing Alert Service Bulletin B787–81205–SB250044–00, Issue 001, dated November 8, 2013.

• Boeing Alert Service Bulletin B787–81205–SB250045–00, Issue 001, dated November 15, 2013.

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 of this NPRM.

**FAA's Determination**

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

**Proposed AD Requirements**

This proposed AD would require accomplishing the actions specified in the service information described previously. Refer to this service information for details on the procedures and compliance times.

The phrase ''corrective actions'' might be used in this proposed AD. ''Corrective actions'' are actions that correct or address any condition found. Corrective actions in an AD could include, for example, repairs.

**Costs of Compliance**

We estimate that this proposed AD affects 6 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Inspection | 222 work-hours × $85 per hour = $18,870 | $0 | $18,870 | $113,220 |

We estimate the following costs to do any necessary replacements that would be required based on the results of the proposed inspection. We have no way of determining the number of aircraft that might need these replacements.

ON-CONDITION COSTS

| Action | Labor cost | Parts cost | Cost per product |
|---|---|---|---|
| Replacement | 20 work-hours × $85 per hour = $1,700 | Up to $21,191 | Up to $22,891. |

According to the manufacturer, all of the costs of this proposed 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 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.

**Regulatory Findings**

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

For the reasons discussed above, I certify this proposed regulation:

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

(2) 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.

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**The Boeing Company:** Docket No. FAA–2015–4812; Directorate Identifier 2015–NM–034–AD.

**(a) Comments Due Date**

We must receive comments by January 4, 2016.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to certain The Boeing Company Model 787–8 airplanes, certificated in any category, identified in the service information specified in paragraphs (c)(1) through (c)(8) of this AD.

(1) Boeing Alert Service Bulletin B787–81205–SB250036–00, Issue 001, dated September 10, 2013.

(2) Boeing Alert Service Bulletin B787–81205–SB250039–00, Issue 001, dated October 8, 2013.

(3) Boeing Alert Service Bulletin B787–81205–SB250040–00, Issue 001, dated October 14, 2013.

(4) Boeing Alert Service Bulletin B787–81205–SB250041–00, Issue 001, dated October 18, 2013.

(5) Boeing Alert Service Bulletin B787–81205–SB250042–00, Issue 001, dated October 28, 2013.

(6) Boeing Alert Service Bulletin B787–81205–SB250043–00, Issue 001, dated November 4, 2013.

(7) Boeing Alert Service Bulletin B787–81205–SB250044–00, Issue 001, dated November 8, 2013.

(8) Boeing Alert Service Bulletin B787–81205–SB250045–00, Issue 001, dated November 15, 2013.

**(d) Subject**

Air Transport Association (ATA) of America Code 25, Equipment/Furnishings.

**(e) Unsafe Condition**

This AD was prompted by a report that certain center and outboard stowage bin modules were incorrectly installed. We are issuing this AD to detect and correct incorrectly installed center and outboard stowage bin modules that might not remain intact during an emergency landing, resulting in injuries to occupants and interference with airplane evacuation.

**(f) Compliance**

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

**(g) Inspection and Corrective Action**

Except as specified in paragraph (h) of this AD: At the applicable time specified in paragraph 5., ''Compliance,'' of the applicable service information specified in paragraphs (g)(1) through (g)(8) of this AD: Do a general visual inspection of the installations of the center and outboard stowage bin modules to determine if any part is missing, if any part is installed at an incorrect location, or if any quick release pin is not fully engaged; and do all applicable corrective actions; in accordance with the Accomplishment Instructions of the applicable service information identified in paragraphs (g)(1) through (g)(8) of this AD. Do all applicable corrective actions before further flight.

(1) For airplanes having variable numbers (V/Ns) ZA177 through ZA183 inclusive: Use Boeing Alert Service Bulletin B787–81205–SB250036–00, Issue 001, dated September 10, 2013.

(2) For airplanes having V/Ns ZA100 through ZA105 inclusive, V/Ns ZA116 through ZA119 inclusive, V/N ZA135, and V/NsZA506 through ZA511 inclusive: Use Boeing Alert Service Bulletin B787–81205–SB250039–00, Issue 001, dated October 8, 2013.

(3) For airplanes having V/Ns ZA460 through ZA464 inclusive: Use Boeing Alert Service Bulletin B787–81205–SB250040–00, Issue 001, dated October 14, 2013.

(4) For airplanes having V/Ns ZA233 and V/Ns ZA236 through ZA240 inclusive: Use Boeing Alert Service Bulletin B787–81205–SB250041–00, Issue 001, dated October 18, 2013.

(5) For airplanes having V/Ns ZA285 through ZA290 inclusive: Use Boeing Alert Service Bulletin B787–81205–SB250042–00, Issue 001, dated October 28, 2013.

(6) For airplanes having V/Ns ZA270 through ZA271 inclusive: Use Boeing Alert Service Bulletin B787–81205–SB250043–00, Issue 001, dated November 4, 2013.

(7) For airplanes having V/Ns ZA261 through ZA264 inclusive: Use Boeing Alert Service Bulletin B787–81205–SB250044–00, Issue 001, dated November 8, 2013.

(8) For airplanes having V/Ns ZA536 through ZA538 inclusive: Use Boeing Alert Service Bulletin B787–81205–SB250045–00, Issue 001, dated November 15, 2013.

**(h) Exceptions to Service Information Specifications**

Where the service information identified in paragraphs (g)(1) through (g)(8) of this AD specifies a compliance time ''after the original issue date of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

**(i) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, Seattle Aircraft Certification Office (ACO), 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 manager of the ACO, send it to the attention of the person identified in paragraph (j)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

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

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

**(j) Related Information**

(1) For more information about this AD, contact Stanley Chen, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle ACO, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6585; fax: 425–917–6590; email: *stanley.chen@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on November 4, 2015.

**Dionne Palermo,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2015–28882 Filed 11–16–15; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2015–4023; Directorate Identifier 2015–NE–29–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; General Electric Company Turbofan Engines

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for all General Electric Company (GE) CF6–80E1 turbofan engines with rotating compressor discharge pressure (CDP) seal, part number (P/N) 1669M73P02, installed. This proposed AD was prompted by reports from the manufacturer of cracks in the teeth of two rotating CDP seals found during engine shop visits. This proposed AD would require stripping of the coating, inspecting, and recoating the teeth of the affected rotating CDP seals. We are proposing this AD to prevent cracking of the CDP seal teeth, which can lead to uncontained part release, damage to the engine, and damage to the airplane.

**DATES:** We must receive comments on this proposed AD by January 19, 2016.

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

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

For service information identified in this proposed AD, contact General Electric Company, GE Aviation, Room

285, 1 Neumann Way, Cincinnati, OH 45215; phone: 513–552–3272; email: *aviation.fleetsupport@ge.com.* You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

**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–2015–4023; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:**
Herman Mak, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7147; fax: 781–238–7199; email: *herman.mak@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–4023; Directorate Identifier 2015–NE–29–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

**Discussion**

We received reports from GE of cracks in the teeth on two rotating CDP seals found during engine shop visits. We learned that the current borazon-nickel seal tooth coating oxidizes during engine operation, which could lead to reduced cutting action, overheating of the seal teeth, and premature cracking of the seal teeth. This condition, if not corrected, could result in cracking of the CDP seal teeth, uncontained part release, damage to the engine, and damage to the airplane.

**Relevant Service Information Under 1 CFR Part 51**

We reviewed GE Service Bulletin (SB) No. CF6–80E1 S/B 72–0529, Revision 1, dated August 21, 2015. The SB describes procedures for stripping, inspecting, and replacing the seal tooth coating on the affected rotating CDP seals. 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 of this document.

**Other Related Service Information**

We reviewed GE CF6–80E1 (GEK99376) Engine Manual, Revision 42, dated March 15, 2014. The engine manual describes acceptable repair procedures for the seal teeth.

**FAA's Determination**

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

**Proposed AD Requirements**

This proposed AD would require stripping, inspecting, and recoating the teeth on the affected CDP seals.

**Costs of Compliance**

We estimate that this proposed AD will affect 6 engines installed on airplanes of U.S. registry. We also estimate that it will take about 7 hours per engine to comply with this proposed AD. The average labor rate is $85 per hour. Parts would cost about $7,835 per engine. Based on these figures, we estimate the total cost of this proposed AD to U.S. operators to be $50,657.

**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.

**Regulatory Findings**

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

For the reasons discussed above, I certify this proposed regulation:

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

(2) 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 to the extent that it justifies making a regulatory distinction, 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.

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**General Electric Company:** Docket No. FAA–2015–4023; Directorate Identifier 2015–NE–29–AD.

**(a) Comments Due Date**

We must receive comments by January 19, 2016.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to all General Electric Company (GE) CF6–80E1 turbofan engines with rotating compressor discharge pressure (CDP) seals, part number (P/N) 1669M73P02, installed.

**(d) Unsafe Condition**

This AD was prompted by reports from the manufacturer of cracks in the teeth of two rotating CDP seals found during engine shop visits. We are issuing this AD to prevent cracking of the CDP seal teeth, which can lead to uncontained part release, damage to the engine, and damage to the airplane.

**(e) Compliance**

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

(2) After the effective date of this AD, strip coating, inspect, and recoat the teeth of the rotating CDP seal, P/N 1669M73P02, in accordance with paragraph 3.C.(2) of GE Service Bulletin (SB) No. CF6–80E1 S/B 72–0529, Revision 1, dated August 21, 2015, as follows:

(i) For engines that have had stationary CDP seal, P/N 1347M28G02, repaired or replaced, strip coating, inspect, and recoat the rotating CDP seal at the next engine shop visit.

(ii) For engines that have not had stationary CDP seal, P/N 1347M28G02, repaired or replaced, strip coating, inspect, and recoat the rotating CDP seal at the next part exposure.

**(f) Definitions**

(1) For the purpose of this AD, part exposure is defined as removal of the compressor rear frame from the high-pressure compressor module.

(2) For the purpose of this AD, an engine shop visit is defined as the induction of an engine into the shop for maintenance involving the separation of pairs of major mating engine flanges, except that the separation of engine flanges solely for the purposes of transportation without subsequent engine maintenance does not constitute an engine shop visit.

**(g) Credit for Previous Action**

If you stripped, inspected, and recoated the CDP seal, P/N 1669M73P02, using the procedures in ESM 72–31–10, REPAIR 002 of the GE CF6–80E1 (GEK99376) Engine Manual, Revision 42, dated March 15, 2014, or earlier versions, then you met the requirements of this AD.

**(h) Alternative Methods of Compliance (AMOCs)**

The Manager, Engine Certification Office, FAA, may approve AMOCs to this AD. Use the procedures found in 14 CFR 39.19 to make your request. You may email your request to: *ANE-AD-AMOC@faa.gov.*

**(i) Related Information**

(1) For more information about this AD, contact Herman Mak, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7147; fax: 781–238–7199; email: *herman.mak@faa.gov.*

(2) GE SB No. CF6–80E1 S/B 72–0529, Revision 1, dated August 21, 2015 can be obtained from GE using the contact information in paragraph (i)(3) of this proposed AD.

(3) For service information identified in this proposed AD, contact General Electric Company, GE Aviation, Room 285, 1 Neumann Way, Cincinnati, OH 45215; phone: 513–552–3272; email: *aviation.fleetsupport@ge.com.*

(4) You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Issued in Burlington, Massachusetts, on November 4, 2015.

**Carlos A. Pestana,**

*Acting Directorate Manager, Engine & Propeller Directorate, Aircraft Certification Service.*

[FR Doc. 2015–28898 Filed 11–16–15; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2015–4814; Directorate Identifier 2015–NM–105–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Bombardier, Inc. Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for certain Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. This proposed AD was prompted by the discovery of a number of incorrectly calibrated angle of attack (AOA) transducers installed in the stall protection system. This proposed AD would require replacement of incorrectly calibrated AOA transducers. We are proposing this AD to detect and replace incorrectly calibrated AOA transducers; incorrect calibration of the transducers could result in late activation of the stick pusher.

**DATES:** We must receive comments on this proposed AD by January 4, 2016.

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

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

For service information identified in this proposed AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

**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–2015–4814; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Cesar Gomez, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7318; fax 516–794–5531.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–4814; Directorate Identifier 2015–NM–105–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

### Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2015–17, effective July 16, 2015 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. The MCAI states:

> It was discovered that a number of [angle of attack] AOA transducers installed on Bombardier CL–600–2B19 aeroplanes were incorrectly calibrated due to a quality control problem at both the production and repair facilities. Incorrect calibration of the AOA transducer could result in a late activation of the stick pusher.
>
> This [Canadian] AD mandates the replacement of the incorrectly calibrated AOA transducer.

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–2015–4814.

### Related Service Information Under 1 CFR Part 51

Bombardier, Inc. has issued Bombardier Service Bulletin 601R–27–164, dated March 30, 2015. The service information describes procedures for replacement of incorrectly calibrated AOA transducers with correctly calibrated AOA transducers. 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 of this NPRM.

### FAA's Determination and Requirements of This Proposed AD

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

### Costs of Compliance

We estimate that this proposed AD affects 575 airplanes of U.S. registry.

We also estimate that it would take about 4 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $10,000 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $5,945,500, or $10,340 per product.

### 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.

### Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. 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.

### The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**Bombardier, Inc.:** Docket No. FAA–2015–4814; Directorate Identifier 2015–NM–105–AD.

#### (a) Comments Due Date

We must receive comments by January 4, 2016.

#### (b) Affected ADs

None.

#### (c) Applicability

This AD applies to Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, certificated in any category, serial numbers 7003 through 7067 inclusive, 7069 through 7990 inclusive, and 8000 through 8999 inclusive.

#### (d) Subject

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

#### (e) Reason

This AD was prompted by the discovery of a number of incorrectly calibrated angle of attack (AOA) transducers installed in the stall protection system.

#### (f) Compliance

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

#### (g) Replacement

For AOA transducers identified in paragraph 1.A., ''Effectivity,'' of Bombardier Service Bulletin 601R–27–164, dated March 30, 2015: Within 2,500 flight hours or 12 months, whichever occurs first after the effective date of this AD, replace the AOA transducers with correctly calibrated AOA transducers, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 601R–27–164, dated March 30, 2015.

#### (h) Parts Installation Prohibition

As of the effective date of this AD, no person may install, on any airplane, an AOA transducer having a part number or serial number listed in paragraph 1.A., ''Effectivity,'' of Bombardier Service Bulletin 601R–27–164, dated March 30, 2015.

#### (i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), ANE–170, 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 ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. 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. The AMOC approval letter must specifically reference this AD.

(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, New York ACO, ANE–170, Engine and Propeller Directorate, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

**(j) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2015–17, dated July 16, 2015, 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–2015–4814.

(2) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on November 5, 2015.

**Dionne Palermo,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2015–28885 Filed 11–16–15; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2015–4813; Directorate Identifier 2013–NM–161–AD]**

**RIN 2120–AA64**

### Airworthiness Directives; Airbus Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to supersede Airworthiness Directive (AD) 99–16–01, for certain Airbus Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes). AD 99–16–01 currently requires repetitive inspections of certain bolt holes where parts of the main landing gear (MLG) are attached to the wing rear spar, and repair if necessary. Since we issued AD–99–16–01, we have determined that the risk of cracking in the rear spar is higher than initially determined. This proposed AD would add airplanes to the applicability, reduce the compliance times and repetitive intervals for the inspections, and change the inspection procedures. We are proposing this AD to detect and correct cracking of the rear spar of the wing, which could result in reduced structural integrity of the airplane.

**DATES:** We must receive comments on this proposed AD by January 4, 2016.

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

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

For service information identified in this proposed AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

**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–2015–4813; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–2125; fax: 425–227–1149.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–4813; Directorate Identifier 2013–NM–161–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

**Discussion**

On July 21, 1999, we issued AD 99–16–01, Amendment 39–11236 (64 FR 40743, July 28, 1999). AD 99–16–01 requires actions intended to address an unsafe condition on Airbus Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes).

Since we issued AD 99–16–01, Amendment 39–11236 (64 FR 40743,

July 28, 1999), a fleet survey and updated fatigue and damage tolerance analyses have shown that the threshold for the initial inspections and the intervals for the repetitive inspections need to be reduced.

The European Aviation Safety Agency (EASA), which is Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2013–0180, dated August 9, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> During full-scale fatigue testing, cracks were found on the rear spar from certain bolt holes at the attachment of the Main Landing gear (MLG) forward pick-up fitting and the MLG Rib 5 aft.
>
> This condition, if not detected and corrected, could reduce the structural integrity of the aeroplane.
>
> DGAC [Direction Générale de l'Aviation Civile] France issued * * * [an AD] (later revised) to require High Frequency Eddy Current (HFEC) or Ultrasonic (U/S) inspections of certain fastener holes where the MLG forward pick-up fitting and MLG Rib 5 aft are attached to the rear spar.
>
> Since DGAC France * * * [issued a revised AD, which corresponded to FAA AD 99–16–01, Amendment 39–11236 (64 FR 40743, July 28, 1999), which superseded FAA AD 95–20–02, Amendment 39–9380 (60 FR 52618, October 10, 1995)] * * *, a fleet survey and updated Fatigue and Damage Tolerance analyses have been performed in order to substantiate the second A300–600 Extended Service Goal (ESG2) exercise. The results of these analyses have shown that the threshold and interval must be reduced to allow timely detection of these cracks and accomplishment of an applicable corrective action.
>
> For the reasons described above, this [EASA] AD retains the requirements of [the revised DGAC France AD], which is superseded, but reduces the related compliance times.

The new, reduced threshold for the initial inspection ranges between 8,900 total flight cycles/20,000 total flight hours, and 34,600 total flight cycles/ 77,800 total flight hours, depending on the modification. The grace periods (750 or 1,500 landings) for airplanes that have exceeded the specified thresholds are unchanged from those provided in AD 99–16–01, Amendment 39–11236 (64 FR 40743, July 28, 1999). The new, reduced intervals for the repetitive inspections range between 4,000 flight cycles/9,000 flight hours (whichever occurs first), and 8,900 flight cycles/ 20,000 flight hours (whichever occurs first), depending on the modification. 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–2015–4813.

**Clarification of Terminating Action for Certain Paragraphs**

We have determined that if the inspection in paragraph (g)(4)(ii)(B)(*2*) of the proposed AD was done it would terminate the repetitive inspections specified in paragraph (g)(2) of this proposed AD. We have revised paragraph (g)(3)(i) of this proposed AD to include accomplishment of the inspection in paragraph (g)(4)(ii)(B)(*2*) as a terminating action. We have also determined that if the inspection in paragraph (g)(4)(ii)(B)(*1*) of the proposed AD was done it would terminate the repetitive inspections specified in paragraph (g)(2) of this proposed AD. We have revised paragraph (g)(3)(ii) of this proposed AD to include accomplishment of the inspection in paragraph (g)(4)(ii)(B)(*1*) of this AD as a terminating action.

**Related Service Information Under 1 CFR Part 51**

Airbus has issued Service Bulletin A300–57–6017, Revision 04, including Appendix 1, dated February 4, 2011. This service information describes procedures for repetitive inspections of certain bolt holes where parts of the MLG are attached to the wing rear spar, and repair. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section of this NPRM.

**FAA's Determination and Requirements of This Proposed AD**

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

**Changes to AD 99–16–01, Amendment 39–11236 (64 FR 40743, July 28, 1999)**

This proposed AD would retain all the requirements of AD 99–16–01, Amendment 39–11236 (64 FR 40743, July 28, 1999). Since AD 99–16–01 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have been redesignated in this proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

| Requirement in AD 99–16–01, Amendment 39–11236 (64 FR 40743, July 28, 1999) | Corresponding requirement in this proposed AD |
|---|---|
| paragraph (a) | paragraph (g)(1) |
| paragraph (b) | paragraph (g)(2) |
| paragraph (c) | paragraph (g)(3) |
| paragraph (d) | paragraph (g)(4) |
| paragraph (e) | paragraph (g)(5) |
| paragraph (f) | paragraph (g)(6) |

Certain notes that appeared in AD 99–16–01, Amendment 39–11236 (64 FR 40743, July 28, 1999), were either removed due to the revised AD format or converted to regulatory text in this proposed AD.

- Notes 1, 6, and 7 of AD 99–16–01 have been removed from this proposed AD. Due to the revised AD format, certain information in these notes is now included in the AD template.
- The content of Note 2 of AD 99–16–01 is regulatory in nature; therefore, we have included that information in paragraph (k)(1) of this proposed AD.
- The content of Note 3 of AD 99–16–01 has been redesignated as Note 1 to paragraph (g) in this proposed AD.
- The content of Note 4 of AD 99–16–01 is regulatory in nature; therefore, we have included that information in paragraph (g)(2)(ii) of this proposed AD.
- The content of Note 5 of AD 99–16–01 is regulatory in nature; therefore, we have included that information in paragraph (k)(3) of this proposed AD.

**Costs of Compliance**

We estimate that this proposed AD affects 71 airplanes of U.S. registry.

The actions required by AD 99–16–01, Amendment 39–11236 (64 FR 40743, July 28, 1999), and retained in this proposed AD, take about 226 work-hours per product, at an average labor rate of $85 per work-hour. Required parts cost about $0 per product. Based on these figures, the estimated cost of the actions that are required by AD 99–16–01 is $19,210 per product, per inspection cycle.

We also estimate that it would take about 226 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $1,363,910, or $19,210 per product.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed AD.

## 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.

## Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. 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.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

## List of Subjects in 14 CFR Part 39

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

## The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 99–16–01, Amendment 39–11236 (64 FR 40743, July 28, 1999), and adding the following new AD:

**Airbus:** Docket No. FAA–2015–4813; Directorate Identifier 2013–NM–161–AD.

**(a) Comments Due Date**

We must receive comments by January 4, 2016.

**(b) Affected ADs**

This AD replaces AD 99–16–01, Amendment 39–11236 (64 FR 40743, July 28, 1999).

**(c) Applicability**

This AD applies to Airbus Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes; Model A300 B4–605R and B4–622R airplanes; Model A300 F4–605R airplanes; and Model A300 C4–605R Variant F airplanes; certificated in any category; all manufacturer serial numbers.

**(d) Subject**

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

**(e) Reason**

This AD was prompted by the results of a full-scale fatigue test when cracking was found on the rear spar of the wing, and the subsequent determination that the risk of such cracking is higher than initially determined. We are issuing this AD to detect and correct cracking of the rear spar of the wing, which could result in reduced structural integrity of the airplane.

**(f) Compliance**

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

**(g) Retained Inspections and Corrective Actions**

This paragraph restates the requirements of paragraphs (a), (b), (c), (d), (e), and (f) of AD 99–16–01, Amendment 39–11236 (64 FR 40743, July 28, 1999), with revised service information and reduced thresholds and repetitive intervals, for Airbus Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes; manufacturer serial numbers (MSNs) 252 through 553 inclusive; except those airplanes on which Airbus Modification 07601 has been accomplished prior to delivery.

(1) Perform a high frequency eddy current (HFEC) rototest inspection to detect cracks in certain bolt holes where the main landing gear (MLG) forward pick-up fitting and MLG rib 5 aft are attached to the rear spar, in accordance with Airbus Service Bulletin A300–57–6017, Revision 01, including Appendix 1, dated July 25, 1994; or Airbus Service Bulletin A300–57–6017, Revision 04, including Appendix 1, dated February 24, 2011. As of the effective date of this AD, only Airbus Service Bulletin A300–57–6017, Revision 04, including Appendix 1, dated February 24, 2011, may be used for the actions required by this paragraph.

(i) For airplanes that have accumulated 17,300 total landings or less as of November 9, 1995 (the effective date of AD 99–16–01, Amendment 39–11236 (64 FR 40743, July 28, 1999)): Inspect prior to the accumulation of 17,300 total landings, or within 1,500 landings after November 9, 1995, whichever occurs later.

(ii) For airplanes that have accumulated 17,301 or more total landings, but less than 19,300 total landings as of November 9, 1995 (the effective date of AD 99–16–01, Amendment 39–11236 (64 FR 40743, July 28, 1999)): Inspect within 1,500 landings after November 9, 1995.

(iii) For airplanes that have accumulated 19,300 or more total landings as of November 9, 1995 (the effective date of AD 99–16–01, Amendment 39–11236 (64 FR 40743, July 28, 1999)): Inspect within 750 landings after November 9, 1995 (the effective date of AD 99–16–01, Amendment 39–11236 (64 FR 40743, July 28, 1999)):

(2) If no crack is found during the inspection required by paragraph (g)(1) of this AD, repeat that inspection thereafter at the time specified in either paragraph (g)(2)(i) or (g)(2)(ii) of this AD, as applicable.

(i) For airplanes on which Airbus Modification 07716 (as specified in Airbus Service Bulletin A300–57–6020) has not been accomplished, inspect at the time specified in paragraph (g)(2)(i)(A) or (g)(2)(i)(B) of this AD, as applicable.

(A) For airplanes having MSNs 465 through 553 inclusive: Repeat the inspection at intervals not to exceed 13,000 landings, until the inspection required by paragraph (g)(4)(ii)(A)(*1*) of this AD has been accomplished.

(B) For airplanes having MSN 252 through 464 inclusive: Repeat the inspection at intervals not to exceed 8,400 landings, until the inspection required by paragraph (g)(4)(ii)(A)(*2*) of this AD has been accomplished.

(ii) For airplanes on which Airbus Modification 07716 has been accomplished, inspect at the time specified in either paragraph (g)(2)(ii)(A) or (g)(2)(ii)(B) of this AD, as applicable.

(A) For airplanes having MSNs 465 through 553 inclusive: Repeat the inspection at intervals not to exceed 11,800 landings, until the inspection required by paragraph (g)(4)(i)(B) of this AD has been accomplished.

(B) For airplanes having MSNs 252 through 464 inclusive: Repeat the inspection within 10,700 landings following the initial inspection required by paragraph (g)(1) of this AD, and thereafter at intervals not to exceed 7,500 landings, until the inspection required by paragraph (g)(4)(ii)(B)(*2*) has been accomplished.

(3) If any crack is found during the inspection required by either paragraph (g)(1) or (g)(2) of this AD, prior to further flight,

accomplish the requirements of either paragraph (g)(3)(i) or (g)(3)(ii) of this AD, as applicable.

(i) For airplanes on which Airbus Modification 07716 has not been accomplished: Oversize the bolt hole by 1⁄32 inch and repeat the HFEC inspection required by paragraph (g)(1) of this AD, in accordance with Airbus Service Bulletin 300–57–6017, Revision 01, including Appendix 1, dated July 25, 1994. After accomplishing the oversizing and HFEC inspection, repeat the inspection, as required by paragraph (g)(2) of this AD, at the applicable schedule specified in that paragraph, until the inspection required by paragraph (g)(4)(ii)(B)(*1*) or (g)(4)(ii)(B)(*2*) of this AD has been accomplished.

(A) If no cracking is detected, install the second oversize bolt in accordance with Airbus Service Bulletin 300–57–6017, Revision 01, including Appendix 1, dated July 25, 1994.

(B) If any cracking is detected, repair in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate.

(ii) For airplanes on which Airbus Modification 07716 has been accomplished: Repair in accordance with a method approved by the Manager, International Branch, ANM–116. After repair, repeat the inspections as required by paragraph (g)(2) of this AD at the applicable schedule specified in that paragraph, until the inspection required by paragraph (g)(4)(ii)(B)(*1*) or (g)(4)(ii)(B)(*2*) of this AD has been accomplished.

(4) Perform an ultrasonic inspection to detect cracks in certain bolt holes where the MLG forward pick-up fitting and MLG rib 5 aft are attached to the rear spar, in accordance with Airbus Service Bulletin A300–57–6017, Revision 03, dated November 19, 1997; or Revision 04, including Appendix 1, dated February 24, 2011; at the time specified in paragraph (g)(4)(i) or (g)(4)(ii) of this AD, as applicable. As of the effective date of this AD, only Airbus Service Bulletin A300–57–6017, Revision 04, including Appendix 1, dated February 24, 2011, may be used for the actions in this paragraph.

(i) For airplanes not inspected prior to September 1, 1999 (the effective date of AD 99–16–01, Amendment 39–11236 (64 FR 40743, July 28, 1999)), as specified in Airbus Service Bulletin A300–57–6017, dated November 22, 1993; or Revision 01, including Appendix 1, dated July 25, 1994: Inspect at the time specified in paragraph (g)(4)(i)(A), (g)(4)(i)(B), or (g)(4)(i)(C) of this AD, as applicable. Accomplishment of this inspection terminates the requirements of paragraph (g)(1) of this AD.

(A) For airplanes that have accumulated 17,300 total landings or fewer as of the effective date of this AD: Inspect prior to the accumulation of 17,300 total landings, or within 1,500 landings after September 1, 1999 (the effective date of AD 99–16–01, Amendment 39–11236 (64 FR 40743, July 28, 1999)), whichever occurs later.

(B) For airplanes that have accumulated 17,301 total landings or more but fewer than 19,300 total landings as of September 1, 1999 (the effective date of AD 99–16–01, Amendment 39–11236 (64 FR 40743, July 28, 1999)): Inspect within 1,500 landings after September 1, 1999 (the effective date of AD 99–16–01).

(C) For airplanes that have accumulated 19,300 total landings or more as of September 1, 1999 (the effective date of AD 99–16–01, Amendment 39–11236 (64 FR 40743, July 28, 1999)): Inspect within 750 landings after September 1, 1999 (the effective date of AD 99–16–01).

(ii) For airplanes on which an HFEC inspection was performed prior to September 1, 1999 (the effective date of AD 99–16–01, Amendment 39–11236 (64 FR 40743, July 28, 1999)), in accordance with the requirements of paragraph (g)(1) of this AD, or in accordance with Airbus Service Bulletin A300–57–6017, dated November 22, 1993: Inspect at the time specified in paragraph (g)(4)(ii)(A) or (g)(4)(ii)(B) of this AD, as applicable.

(A) If no cracking was detected during any HFEC inspection accomplished prior to September 1, 1999 (the effective date of AD 99–16–01, Amendment 39–11236 (64 FR 40743, July 28, 1999)), and if Airbus Modification 07716 has not been accomplished: Inspect at the time specified in paragraph (g)(4)(ii)(A)(*1*) or (g)(4)(ii)(A)(*2*) of this AD, as applicable.

(*1*) For airplanes having MSNs 465 through 553 inclusive: Inspect within 13,000 landings after the most recent HFEC inspection, and thereafter at intervals not to exceed 8,900 landings. Accomplishment of this inspection constitutes terminating action for the repetitive inspection requirement of paragraph (g)(2)(i)(A) of this AD.

(*2*) For airplanes having MSNs 252 through 464 inclusive: Inspect within 8,400 landings after the most recent HFEC inspection, and thereafter at intervals not to exceed 5,500 landings. Accomplishment of this inspection constitutes terminating action for the repetitive inspection requirement of paragraph (g)(2)(i)(B) of this AD.

(B) If any cracking was detected during any HFEC inspection performed prior to the effective date of this AD, regardless of the method of repair, or if Airbus Modification 07716 has been accomplished: Inspect at the time specified in paragraph (g)(4)(ii)(B)(*1*) or (g)(4)(ii)(B)(*2*) of this AD, as applicable.

(*1*) For airplanes having MSNs 465 through 553 inclusive: Inspect within 11,800 landings after the most recent HFEC inspection, and thereafter at intervals not to exceed 8,200 landings. Accomplishment of this inspection constitutes terminating action for the repetitive inspection requirement of paragraph (g)(3)(i) or (g)(3)(ii) of this AD, as applicable.

(*2*) For airplanes having MSNs 252 through 464 inclusive: Inspect within 10,700 landings after the initial inspection in accordance with paragraph (g)(1) of this AD, or within 7,500 landings after the most recent HFEC inspection, whichever occurs later, and thereafter at intervals not to exceed 4,900 landings. Accomplishment of this inspection constitutes terminating action for the repetitive inspection requirement of paragraph (g)(3)(i) or (g)(3)(ii) of this AD, as applicable.

(5) If no cracking is detected during the ultrasonic inspection required by paragraph (g)(4)(i) of this AD, repeat that inspection thereafter at the time specified in paragraph (g)(5)(i) or (g)(5)(ii) of this AD, as applicable, until the initial ultrasonic inspection required by paragraph (h) of this AD is done.

(i) For airplanes having MSNs 465 through 553 inclusive: Repeat the inspection at intervals not to exceed 8,900 landings.

(ii) For airplanes having MSNs 232 through 464 inclusive: Repeat the inspection at intervals not to exceed 5,500 landings.

(6) If any cracking is detected during any inspection performed in accordance with the requirements of paragraph (g)(4) or (g)(5) of this AD: Prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116; or the Direction Générale de l'Aviation Civile (or its delegated agent); or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA).

Note 1 to paragraph (g) of this AD: Airbus Service Bulletin A300–57–6017, Revision 01, including Appendix 1, dated July 25, 1994; and Airbus Service Bulletin A300–57–6017, Revision 04, including Appendix 1, dated February 24, 2011; also reference Airbus Service Bulletin A300–57–6020, dated November 22, 1993, as an additional source of service information for installation of oversize studs in the bolt holes.

**(h) New Repetitive Inspections**

At the applicable times specified in paragraph 1.B.(5), ''Accomplishment Timescale,'' of Airbus Service Bulletin A300–57–6017, Revision 04, including Appendix 1, dated February 24, 2011: Do ultrasonic inspections to detect cracks in the MLG attachment fitting holes on the wing rear spar, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–6017, Revision 04, including Appendix 1, dated February 24, 2011. Repeat the inspections thereafter at the applicable intervals specified in paragraph 1.B.(5), ''Accomplishment Timescale,'' of Airbus Service Bulletin A300–57–6017, Revision 04, including Appendix 1, dated February 24, 2011. For airplanes modified as specified in Airbus Service Bulletin A300–57–6073, the initial inspection threshold is counted from the completion date of the modification. Clarification of compliance time terminology used in table 1, ''Structural Inspection Program,'' of Airbus Service Bulletin A300–57–6017, Revision 04, including Appendix 1, dated February 24, 2011, is provided in paragraphs (h)(1) through (h)(4) of this AD. Accomplishment of the initial inspection terminates the repetitive inspections required by paragraph (g)(5) of this AD.

(1) For pre-Airbus Modification 07716 or pre-Airbus Modification 11440 airplanes:

(i) The term ''flight cycles'' in the ''Inspection Threshold'' column is total flight cycles accumulated by the airplane.

(ii) The term ''flight hours'' in the ''Inspection Threshold'' column is total flight hours accumulated by the airplane.

(2) For post-Airbus Modification 07716 airplanes:

(i) The term ''flight cycles'' in the ''Inspection Threshold'' column is total flight cycles accumulated by the airplane.

(ii) The term ''flight hours'' in the ''Inspection Threshold'' column is total flight hours accumulated by the airplane.

(3) For post-Airbus Modification 11440 (Airbus Service Bulletin A300–57–6073) airplanes:

(i) The term ''flight cycles'' in the ''Inspection Threshold'' column is flight cycles accumulated by the airplane after the modification was done.

(ii) The term ''flight hours'' in the ''Inspection Threshold'' column is flight hours accumulated by the airplane after the modification was done.

(4) For post-Airbus Modification 07601 airplanes:

(i) The term ''flight cycles'' in the ''Inspection Threshold'' column is total flight cycles accumulated by the airplane.

(ii) The term ''flight hours'' in the ''Inspection Threshold'' column is total flight hours accumulated by the airplane.

**(i) Repairs**

If any crack is found during any inspection required by paragraph (h) of this AD: Before further flight, repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA).

**(j) Repair Not Terminating Action**

Accomplishment of any repair as required by paragraph (i) of this AD is not terminating action for the repetitive inspections required by paragraph (g) or (h) of this AD.

**(k) Credit for Previous Actions**

This paragraph provides credit for actions required by paragraphs (g) and (h) of this AD, if those actions were performed before the effective date of this AD using any of the following service information:

(1) Airbus Service Bulletin A300–57–6017, dated November 22, 1993, which is not incorporated by reference in this AD.

(2) Airbus Service Bulletin A300–57–6017, Revision 01, including Appendix 1, dated July 25, 1994, which was incorporated by reference in AD 95–20–02, Amendment 39–9380 (60 FR 52618, October 10, 1995).

(3) Airbus Service Bulletin A300–57–6017, Revision 02, dated January 14, 1997, including Appendix 1, dated July 25, 1994, which is not incorporated by reference in this AD.

(4) Airbus Service Bulletin A300–57–6017, Revision 03, dated November 19, 1997, including Appendix 1, which was incorporated by reference in AD 99–16–01, Amendment 39–11236 (64 FR 40743, July 28, 1999).

**(l) Other FAA AD Provisions**

The following provisions also apply to this AD:

*(1) Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, 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 Branch, send it to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–2125; fax: 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.*

(i) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(ii) AMOCs approved previously for AD 99–16–01, Amendment 39–11236 (64 FR 40743, July 28, 1999), are approved as AMOCs for the corresponding provisions of this AD.

*(2) Contacting the Manufacturer:* As of the effective date of this AD, 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 Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA; or Airbus's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

**(m) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2013–0180, dated August 9, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* searching for and locating Docket No. FAA–2015–4813.

(2) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on November 4, 2015.

**Dionne Palermo,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2015–28892 Filed 11–16–15; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## 18 CFR Part 35

**[Docket No. RM15–23–000]**

## Collection of Connected Entity Data from Regional Transmission Organizations and Independent System Operators

**AGENCY:** Federal Energy Regulatory Commission. DOE.

**ACTION:** Order Granting Motion for Technical Conference and Request to Postpone Comment Deadline.

**SUMMARY:** In this order, the Federal Energy Regulatory Commission (Commission) grants a motion for a technical conference and request to postpone comment deadline that was filed in response to the Notice of Proposed Rulemaking for the Collection of Connected Entity Data from Regional Transmission Organizations and Independent System Operators (NOPR) that Commission issued on September 17, 2015.[1] The Commission directs staff to convene a technical conference on December 8, 2015 and postpones the due date for comments on the NOPR until January 22, 2016, 45 days after the technical conference.

**DATES:** The technical conference will be held on December 8, 2015 and NOPR comments will be due January 22, 2016.

**FOR FURTHER INFORMATION CONTACT:**

David Pierce (Technical Information), Office of Enforcement, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–6454 *david.pierce@ferc.gov.*

Kathryn Kuhlen (Legal Information), Office of Enforcement, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–6855 *kathryn.kuhlen@ferc.gov.*

**SUPPLEMENTARY INFORMATION:**

Before Commissioners: Norman C. Bay, Chairman; Cheryl A. LaFleur, Tony Clark, and Colette D. Honorable.

Collection of Connected Entity Data from Regional Transmission Organizations and Independent System Operators

Docket No. RM15–23–000

[1] *Collection of Connected Entity Data from Regional Transmission Organizations and Independent System Operators*, 152 FERC ¶ 61,219 (2015).

**Order Granting Motion for Technical Conference and Request To Postpone Comment Deadline**

*(Issued November 10, 2015)*

1. On September 17, 2015, the Commission issued a Notice of Proposed Rulemaking (NOPR) to amend its regulations to require each regional transmission organization (RTO) and independent system operator (ISO) to electronically deliver to the Commission, on an ongoing basis, data required from its market participants that would (i) identify the market participants by means of a common alpha-numeric identifier; (ii) list their ''Connected Entities,'' which includes entities that have certain ownership, employment, debt, or contractual relationships to the market participants, as specified in the NOPR; and (iii) describe in brief the nature of the relationship of each Connected Entity. The NOPR states the information is being sought to assist the Commission in its screening and investigative efforts to detect market manipulation, an enforcement priority of the Commission. Comments on the proposed rule are due November 30, 2015, which is 60 days after publication in the **Federal Register** plus one day to accommodate the circumstance that the 60th day falls on a Sunday.

2. On October 28, 2015, a group of entities (the Moving Entities) filed a Motion for Technical Conference and Request to Postpone Comment Deadline.[2] The Motion asks that a technical conference be established and the comment deadline extended, or alternatively that if the technical conference request is denied, that the comment deadline be extended to January 29, 2016, which is two months beyond the current due date.

3. Filings in support of the Moving Entities' request were made by the Commercial Energy Working Group,[3] a consortium of entities composed of Trade Groups,[4] the American Gas Association,[5] a group of independent generation owners and representatives,[6] and the International Energy Credit Association.[7]

4. The Motion acknowledges and supports the important goals underlying the NOPR,[8] but asserts that a technical conference ''would help the Commission carefully consider whether the reporting requirements—as currently drafted—will achieve the desired benefits commensurate with the burden that would be placed on [affected parties], or whether the reporting requirements could be drafted in a manner that eliminates some of the burden while preserving the Commission's goal of detecting market manipulation.'' [9]

5. Upon careful consideration of this request, the Commission concurs that a technical conference would be useful in understanding industry concerns and the extent of the burdens that would be imposed upon market participants under the draft regulatory language. Therefore, the Commission will hold a staff-led technical conference on December 8, 2015, with comments due 45 days thereafter.[10]

The Commission Orders:

The Filing Entities' Motion for Technical Conference and Request to Postpone Comment Deadline is granted. The Commission directs staff to convene a technical conference on December 8, 2015. Comments will be due on January 22, 2016, 45 days after the technical conference.

By the Commission.

Issued: November 10, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–29268 Filed 11–16–15; 8:45 am]

BILLING CODE 6717–01–P

[2] Motion for Technical Conference and Request to Postpone Comment Deadline, Docket No. RM15–23–000 (Oct. 28, 2015) (Motion).

[3] Comments of the Commercial Energy Working Group in Support of Motion for Technical Conference and Request to Postpone Comment Deadline, Docket No. RM15–23–000 (Oct. 29, 2015).

[4] Answer of Trade Groups in Support of Motion for Technical Conference and Request to Postpone Comment Deadline, Docket No. RM15–23–000 (Oct. 30, 2015).

[5] Comments of the American Gas Association in Support of Motion for Technical Conference and Request to Postpone Comment Deadline, Docket No. RM15–23–000 (Oct. 30, 2015).

[6] Comments of Independent Generation Owners & Representatives in Support of Motion for Technical Conference and Request to Postpone Comment Deadline, Docket No. RM15–23–000 (Nov. 4, 2015).

[7] Answer of International Energy Credit Association In Support Of Motion For Technical Conference and Request to Postpone Comment Deadline, Docket No. RM15–23–000 (Nov. 5, 2015).

[8] Motion, p. 2

[9] *Id.*

[10] A notice will be issued setting out the details of the technical conference, including the exact times and agenda.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 866

**[Docket No. FDA–2011–N–0103]**

### Microbiology Devices; Classification of In Vitro Diagnostic Devices for Bacillus Species Detection

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Proposed rule; reproposal of proposed rule.

**SUMMARY:** The Food and Drug Administration (FDA) is re-proposing to classify in vitro diagnostic devices for *Bacillus* species (spp.) detection into class II (special controls) after considering, among other information, the recommendations of the Microbiology Devices Advisory Panel (the Panel). FDA is re-proposing to establish special controls in a draft special controls guideline that the Agency believes are necessary to provide a reasonable assurance of the safety and effectiveness of the devices. In addition, FDA is re-proposing to restrict use and distribution of the devices. FDA is publishing in this proposed rule the recommendations of the Panel regarding the classification of the devices.

**DATES:** Submit either electronic or written comments on the proposed rule by February 16, 2016.

**ADDRESSES:** You may submit comments as follows:

**Electronic Submissions**

Submit electronic comments in the following way:

• Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://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 *http://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): Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, 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–N–0103 for ''Microbiology Devices; Classification of In Vitro Diagnostic Devices for Bacillus Species Detection.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management 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 *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. 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: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

*Docket:* For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://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 Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:**

Beena Puri, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5553, Silver Spring, MD 20993–0002, 301–796–6202.

**SUPPLEMENTARY INFORMATION:**

## I. Background

### A. Regulatory Authorities

The Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 301 *et seq.*), as amended, establishes a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the FD&C Act (21 U.S.C. 360c) establishes three categories (classes) of devices, reflecting the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval).

Under section 513(d) of the FD&C Act, FDA refers to devices that were in commercial distribution before May 28, 1976 (the date of enactment of the Medical Device Amendments of 1976 (Pub. L. 94–295)), as ''preamendments devices.'' FDA classifies these devices after it: (1) Receives a recommendation from a device classification panel (an FDA advisory committee); (2) publishes the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) publishes a final regulation classifying the device. FDA has classified most preamendments devices under these procedures.

A person may market a preamendments device that has been classified into class III through premarket notification procedures, without submission of a premarket approval application (PMA), until FDA issues a final order under section 515(b) of the FD&C Act (21 U.S.C. 360e(b)) requiring premarket approval.

FDA refers to devices that were not in commercial distribution before May 28, 1976, as ''postamendments devices.'' These devices are classified automatically by statute (section 513(f)(1) of the FD&C Act) into class III without any FDA rulemaking process. These devices remain in class III and require premarket approval, unless and until FDA classifies or reclassifies the device into class I or class II or FDA issues an order finding the device to be substantially equivalent in accordance with section 513(i) of the FD&C Act, to a predicate device that does not require premarket approval. The Agency determines whether new devices are substantially equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and 21 CFR part 807.

Section 510(m) of the FD&C Act (21 U.S.C. 360(m)) provides that a class II device may be exempt from the premarket notification requirements under section 510(k) if the Agency determines that premarket notification is not necessary to provide reasonable assurance of the safety and effectiveness of the device.

Section 520(e) of the FD&C Act (21 U.S.C. 360j(e)) authorizes FDA to issue regulations imposing restrictions on the sale, distribution, or use of a device, if, because of its potentiality for harmful effect or the collateral measures necessary to its use, FDA determines that absent such restrictions, there cannot be a reasonable assurance of its safety and effectiveness. Certain provisions of the FD&C Act relate specifically to FDA's authority over restricted devices. For example, section 502(q) and (r) of the FD&C Act (21 U.S.C. 352(q) and (r)) provide that a restricted device distributed or offered for sale in any state shall be deemed to be misbranded if its advertising is false or misleading or fails to include certain information regarding the device, or it is sold, distributed, or used in violation of regulations prescribed under section 520(e) of the FD&C Act, and section 704(a) of the FD&C Act (21 U.S.C. 374(a)) authorizes FDA to inspect certain records relating to restricted devices.

### B. Regulatory History—Background of the Device

After the enactment of the Medical Device Amendments of 1976, FDA undertook to identify and classify all preamendments devices in accordance with section 513(b) of the FD&C Act. However, in vitro diagnostic devices for *Bacillus* spp. detection were not identified and classified in FDA's initial efforts. FDA subsequently identified several preamendments devices for *Bacillus* spp. detection, including *Bacillus* spp. antisera conjugated with a

fluorescent dye (immunofluorescent reagents) used to presumptively identify bacillus-like organisms in clinical specimens, antigens used to identify antibodies to *Bacillus anthracis* (*B. anthracis*) (anti-toxin and anti-capsular) in serum, and bacteriophage used for differentiating *B. anthracis* from other *Bacillus* spp. based on susceptibility to lysis by the phage.

Consistent with the FD&C Act, FDA held a panel meeting on March 7, 2002, regarding the classification of the preamendments in vitro diagnostic devices for *Bacillus* spp. detection (Ref. 1). After the Panel meeting, FDA found three additional in vitro diagnostic devices for *Bacillus* spp. detection to be substantially equivalent to another device within that type. These three devices have the same intended use as their predicate devices, but make use of newer nucleic acid amplification technology. While they exhibit technological differences from the preamendments *Bacillus* spp. detection devices, FDA has determined that they are as safe and effective as, and do not raise different questions of safety and effectiveness than, their predicates. (See section 513(i) of the FD&C Act).

In the **Federal Register** of May 18, 2011 (76 FR 28688; 76 FR 28689), FDA proposed to classify these devices into class II, establish special controls in a draft special controls guidance entitled ''Class II Special Controls Guidance Document: In Vitro Diagnostic Devices for *Bacillus* spp. Detection,'' and limit the distribution of these devices to laboratories with experienced personnel who have training in principles and use of microbiological culture identification methods and infectious disease diagnostics and with appropriate biosafety equipment and containment. In the **Federal Register** of May 6, 2015 (80 FR 26059), FDA withdrew the previously issued draft special controls guidance entitled ''Class II Special Controls Guidance Document: In Vitro Diagnostic Devices for Bacillus spp. Detection.'' This withdrawal was part of FDA's Transparency Initiative and was part of a withdrawal of a number of guidances that had not been finalized for several years.

## II. Panel Recommendation

During a public meeting held on March 7, 2002, the Panel made the following recommendations regarding the classification of in vitro diagnostic devices for *Bacillus* spp. detection (Ref. 1).

### *A. Classification Recommendation*

The Panel recommended that in vitro diagnostic devices for *Bacillus* spp. detection be classified into class II. The Panel believed that general and special controls would provide reasonable assurance of the safety and effectiveness of the devices.

The Panel recommended that the use of these devices be limited to prescription use, and also that distribution of the devices be limited to: (1) Persons with specific training or experience in the applicable testing methods and (2) facilities under the oversight of public health laboratories so that the laboratories could coordinate and communicate with state and local public health directors and so that performance of the devices in the laboratory might be systematically collated for interagency review (including FDA).

The Panel suggested: (1) That FDA partner with the Centers for Disease Control and Prevention, United States Army Medical Research Institute for Infectious Diseases (USAMRIID), and other appropriate Agencies involved in laboratory performance issues to develop practical ways to evaluate the performance of these devices; (2) that appropriate biosafety handling of the diagnostic specimens be followed by laboratories; and (3) that FDA develop testing guidelines to include recommendations on specimen selection, procedures, interpretation of results, and possibly public health notification.

### *B. Summary of Reasons and Data To Support the Recommendations*

At the March 7, 2002, meeting, the Panel considered information from the literature presented by FDA (Refs. 2 to7), information presented at the meeting by representatives from USAMRIID who shared the historical perspective on their institution's use of devices for the detection of *B. anthracis* and their personal experience using these devices, and the Panel's personal knowledge and experience.

Evidence presented to the Panel addressed how the preamendments devices of this type work and some of their limitations (Ref. 1). Bacteriophage tests are used for differentiating *B. anthracis* from other *Bacillus* spp. based on susceptibility to lysis by the phage. They have been shown to specifically lyse vegetative *B. anthracis* and not *Bacillus cereus (B. cereus)* strains, although the phage can fail to lyse rare strains of *B. anthracis or lyse Bacillus strains other than B. anthracis. Bacillus* spp. antisera tests conjugated with a fluorescent dye (immunofluorescent reagents) are used to microscopically visualize specific binding with cultured bacteria. Gram positive rods with capsules that fluoresce are presumptive evidence for identification of *B. anthracis* and must be confirmed with further testing. Antigen tests are used to identify antibodies to *B. anthracis* (anti-toxin and anti-capsular) in serum. They can be used for confirmation of anthrax if the patient survives the disease, because early antibiotic treatment does not abrogate antibody expression. However, such serological testing is most useful for monitoring responses to anthrax vaccines and for epidemiological investigations.

## III. Proposed Classification

FDA is proposing the following identification based on the Panel's discussion and recommendation, FDA's experience with these devices, and other available information. An in vitro diagnostic device for *Bacillus* spp. detection is a prescription device used to detect and differentiate among *Bacillus* spp. and presumptively identify *B. anthracis* and other *Bacillus* spp. from cultured isolates or clinical specimens as an aid in the diagnosis of anthrax and other diseases caused by *Bacillus* spp. This device may consist of *Bacillus* spp. antisera conjugated with a fluorescent dye (immunofluorescent reagents) used to presumptively identify bacillus-like organisms in clinical specimens; bacteriophage used for differentiating *B. anthracis* from other *Bacillus* spp. based on susceptibility to lysis by the phage; or antigens used to identify antibodies to *B. anthracis* (anti-toxin and anti-capsular) in serum. Bacillus infections include anthrax (cutaneous, inhalational, or gastrointestinal) caused by *B. anthracis,* and gastrointestinal disease and non-gastrointestinal infections caused by *B. cereus.*

FDA is proposing to classify these devices into class II because general controls are insufficient to provide reasonable assurance of the safety and effectiveness of the devices, and there is sufficient information to establish special controls to provide such assurance (see section V). For these devices, FDA believes that premarket notification is necessary to provide reasonable assurance of safety and effectiveness and, therefore, FDA does not intend to exempt the devices from premarket notification requirements.

## IV. Risks to Health

Based on the Panel's discussion and recommendations, FDA's experience with these devices, and other available information, we believe the risks to health associated with the use of the device type are those discussed below. No new risks or significant changes in

risks relating to this device type have been identified since the Panel meeting.

Although there have been no reports to date, FDA believes that this type of device presents risks associated with false negative and false positive test results, which could result from device performance failures or errors in interpretation. A false positive result may lead to a patient undergoing unnecessary or ineffective treatment, and also could result in inaccurate epidemiological information on the presence of anthrax disease being publicized in a community, potentially leading to unnecessary prophylaxis and management of others. A false negative result may lead to delayed recognition by the physician of the presence or progression of disease and also could result in a failure to promptly recognize, control, and prevent additional infections. A false negative result could potentially delay diagnosis and treatment of infection caused by *B. anthracis* or other *Bacillus* spp.

In addition, while there have been few reports to date, there may be risks to laboratory workers from handling cultures and control materials. Improper handling of cultures and control materials may expose laboratory workers to serious health problems associated with infection caused by *B. anthracis* or other *Bacillus* spp. Because handling the quality control organisms and those potentially present in the specimen may pose a risk to laboratory workers, FDA is proposing to restrict distribution of these products to laboratories that follow public health guidelines that address appropriate biosafety conditions, interpretation of test results, and coordination of findings with public health authorities.

## V. Special Controls

Based on the Panel's discussion and recommendations, FDA's experience with these devices, and other available information, FDA is proposing to establish the special controls set forth in the draft guideline document entitled ''Class II Special Controls Guideline: In Vitro Diagnostic Devices for *Bacillus* spp. Detection'' (Ref. 8). FDA believes that these special controls, in combination with general controls, are necessary to provide a reasonable assurance of safety and effectiveness of the devices. As discussed further in section XI, for currently marketed devices, FDA does not intend to enforce compliance with the submission requirement for the special controls set forth in sections VI, VII, and IX of the special controls guideline. Manufacturers of such devices must comply with the underlying requirements for those special controls as well as the labeling special controls set forth in section VIII of the guideline.

The class II special controls guideline, which sets forth criteria that are supplemental to other applicable requirements, addresses: (1) Specific information relating to the devices' intended use, components, testing procedures, specimen storage/shipping conditions, and interpretation/reporting that must be submitted to FDA; (2) detailed descriptive information submitted to FDA regarding the studies required to demonstrate appropriate performance and control against assays that may otherwise fail to perform to acceptable standards; (3) specific labeling requirements; and (4) certain information that must be submitted for in vitro diagnostic devices for *Bacillus* spp. detection that use nucleic acid amplification.

First, the submission of specific information to FDA related to the devices' intended use, components, testing procedures, specimen storage/shipping conditions, and interpretation/reporting would help mitigate the risks of false positive and false negatives as well as the biosafety risks of such devices because such information would help FDA to assess the safety and effectiveness of the devices. Second, detailed descriptive information regarding the studies required to demonstrate performance and control would mitigate the risk of false negatives and false positives by helping to ensure that the devices performs to acceptable standards. Third, specific labeling requirements would mitigate the risk of false positives, false negatives, and biosafety risks associated with the devices by helping to ensure that users understand the appropriate uses and limitations of the devices as well as the biosafety risks associated with the devices. Lastly, certain information that must be submitted to FDA for in vitro diagnostic devices for *Bacillus* spp. detection that use nucleic acid amplification would mitigate the risk of false positives and false negatives, as such information would allow FDA to assess the safety and effectiveness of the devices and the regulatory controls necessary to address those issues as well as to ensure the devices performs to acceptable standards.

Manufacturers of diagnostic devices for *Bacillus* spp. detection would need either to: (1) Comply with the particular mitigation measures set forth in the special controls guideline or (2) use alternative mitigation measures, but demonstrate to the Agency's satisfaction that alternative mitigation measures identified by the firm would provide at least an equivalent assurance of safety and effectiveness.

TABLE 1—IDENTIFIED RISKS AND MITIGATION MEASURES

| Identified risks | Mitigation measures |
|---|---|
| A false negative test result may lead to delay of therapy and progression of disease and failure to promptly recognize, control, and prevent disease in the community. | The FDA document entitled ''Class II Special Controls Guideline: In Vitro Diagnostic Devices for *Bacillus* spp. Detection,'' which addresses this risk through: Specific device description requirements, performance studies, labeling, and specific requirements for devices that use nucleic acid amplification. |
| A false positive test result may lead to unnecessary or ineffective treatment and incorrect epidemiological information being publicized, potentially leading to unnecessary prophylaxis and management of others. | The FDA document entitled ''Class II Special Controls Guideline: In Vitro Diagnostic Devices for *Bacillus* spp. Detection,'' which addresses this risk through: Specific device description requirements, performance studies, labeling, and specific requirements for devices that use nucleic acid amplification. |
| Biosafety risks to laboratory workers handling test specimens and control materials. | The FDA document entitled ''Class II Special Controls Guideline: In Vitro Diagnostic Devices for *Bacillus* spp. Detection,'' which addresses this risk through: Specific device description requirements and labeling. |

**VI. Restrictions on Distribution and Use**

FDA also believes that restrictions on the distribution and use of the devices are necessary to provide a reasonable assurance of safety and effectiveness. FDA proposes to restrict distribution of the devices to laboratories that follow public health guidelines that address the appropriate biosafety conditions, interpretation of test results, and coordination of findings with public health authorities. As noted, the Panel was concerned that these devices be used by personnel sufficiently skilled to maximize device performance and to appropriately interpret and make use of test results. FDA believes that this proposed distribution restriction is necessary to provide a reasonable assurance of safety and effectiveness of these devices, and that it would be consistent with the intent of the Panel in its discussion of limitations on the distribution of the devices and on monitoring of test results.

Further, FDA proposes to restrict use of these devices to be a prescription device in accordance with the terms set forth in proposed 21 CFR 866.3045(d).

**VII. Electronic Access**

Persons interested in obtaining a copy of the draft guideline may do so by using the Internet. A search capability for all Center for Devices and Radiological Health guidelines and guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* The draft guideline is also available at *http://www.regulations.gov.* Persons unable to download an electronic copy of ''Class II Special Controls Guideline: In Vitro Diagnostic Devices for *Bacillus* spp. Detection,'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1400038 to identify the guideline you are requesting.

**VIII. Environmental Impact**

The Agency has determined that under 21 CFR 25.34(b) and (f), this proposed action 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**

This proposed rule 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 (the PRA) (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 807, subpart E, have been approved under OMB control number 0910–0120 and the collections of information in 21 CFR parts 801 and 809 have been approved under OMB control number 0910–0485.

The labeling referenced in sections VI(A), VIII(A), and VIII(C) of the draft special controls guideline do not constitute a ''collection of information'' under the PRA because the labeling is a ''public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public'' (5 CFR 1320.3(c)(2)).

**X. Clarifications to Special Controls Guidelines**

The draft special controls guideline reflects changes the Agency has made since the initial proposed rule to clarify its position on the binding nature of special controls. The changes include referring to the document as a ''guideline,'' as that term is used in section 513(a) of the FD&C Act (21 U.S.C. 360c(a)), which the Agency has developed and disseminated to provide a reasonable assurance of safety and effectiveness for class II devices, and not a ''guidance,'' as that term is used in 21 CFR 10.115. The draft guideline clarifies that firms submitting 510(k)s would need either to: (1) Comply with the particular mitigation measures set forth in the special controls guideline or (2) use alternative mitigation measures, but demonstrate to the Agency's satisfaction that those alternative measures identified by the firm will provide at least an equivalent assurance of safety and effectiveness. Finally, the draft guideline uses mandatory language to emphasize that firms must comply with special controls to legally market their class II devices. These revisions do not represent a change in FDA's position about the binding effect of special controls, but rather are intended to address any possible confusion or misunderstanding.

**XI. Implementation Strategy**

FDA proposes the implementation strategy set forth below for these devices if a final rule becomes effective.

- Devices that have *not* been legally marketed prior to the date of publication of any final rule, or devices that have been legally marketed, but are required to submit a new 510(k) under 21 CFR 807.81(a)(3) because the device is about to be significantly changed or modified: Manufacturers must obtain 510(k) clearance and comply with special controls before marketing the new or changed device.
- Devices that have been legally marketed prior to the date of publication of any final rule, and devices for which 510(k) submissions have been submitted before the date of publication of any final rule: FDA does not intend to enforce compliance with the submission requirement for the special controls set forth in sections VI, VII, and IX of the special controls guideline. Manufacturers of such devices must comply with the underlying requirements for those special controls as well as the labeling special controls set forth in section VIII of the guideline.

**XII. Analysis of Impacts**

*A. Economic Analysis of Impacts*

FDA has examined the impacts of this proposed rule under Executive Order 12866, Executive Order 13563, 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 Agencies 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). The Agency believes that this proposed rule is not a significant regulatory action under Executive Order 12866.

The Regulatory Flexibility Act requires Agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because of the minor impact expected from this proposed action, the Agency proposes to certify that the proposed rule, when finalized, will not have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that Agencies 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 $144 million, using the most current (2014) Implicit Price Deflator for the Gross National Product. FDA does not expect this proposed rule, when finalized, to

result in any 1-year expenditure that would meet or exceed this amount.

*B. Summary of Costs and Benefits*

The proposed rule would require the adoption of practices most of which manufacturers of currently marketed in vitro diagnostic devices for *Bacillus* spp. detection already follow. The costs of the proposed rule, when finalized, will be due to manufacturers ensuring that product labeling is consistent with the special controls guideline document as well as conducting likely periodic quality control testing to assure that marketed devices continue to operate at appropriate levels of safety and effectiveness. The costs associated with ensuring labeling is consistent with the guideline are expected to be minor. The required labeling is similar to the cleared indications for use of currently cleared devices and so little change from current labeling is expected. However, because of this regulatory action, it is possible that these additional activities will result in minor cost increases. We have estimated that the proposed rule, if finalized, could result in, at most, annualized costs of approximately $2,300 (3 percent) or $2,500 (7 percent).

There are unlikely to be any *direct* public health benefits from the proposed rule, if finalized, because the rule would require the adoption of practices most of which manufacturers of currently marketed devices already follow and would not change the expected use of the diagnostic product. However, we estimate the proposed regulation, when final, will result in quantifiable benefits of reducing the number of inquiries and incomplete 510(k) submissions from manufacturers to FDA (thereby reducing FDA resources needed to answer those inquiries and review those submissions) to be between approximately $1,400 and $3,400 per year. We believe that the unquantified benefits of the draft special controls guideline, which would help to ensure the quality of these devices, maintain their predictive value, and avoid potential future laboratory errors, cannot be estimated, but represent real benefits to the public health.

The full discussion of economic impacts is available in Docket No. FDA–2011–N–0103 and at *http://www.fda.gov/AboutFDA/ReportsManualsForms/Reports/EconomicAnalyses/default.htm* (Ref. 9).

**XIII. References**

The following references are on display in the Division of Dockets Management (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at *http://www.regulations.gov.* FDA has verified the Web site addresses, as of the date this document publishes in the **Federal Register**, but Web sites are subject to change over time.


1. Transcript of the FDA Microbiology Devices Panel meeting, March 7, 2002, available at *http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfAdvisory/details.cfm?mtg=348.*
2. Abshire, T. G., J. E. Brown, and J. W. Ezzell, ''Validation of the Use of Gamma Phage for Identifying *Bacillus anthracis,''* 102nd American Society for Microbiology Annual Meeting (poster #C122), 2001.
3. Abshire, T. G., et al., ''Production and Validation of the Use of Gamma Phage for the Identification of *Bacillus anthracis,'' Journal of Clinical Microbiology,* vol. 43(9), pp. 4780–8, 2005, available at *http://www.ncbi.nlm.nih.gov/pubmed/16145141.*
4. Brown, E. R. and W. B. Cherry, ''Specific Identification of *Bacillus anthracis* by Means of a Variant Bacteriophage,'' *Journal of Infectious Disease,* vol. 96, p. 34, 1955, available at *http://jid.oxfordjournals.org/content/96/1/34.long.*
5. Brown, E. R. et al., ''Differential Diagnosis of *Bacillus cereus, Bacillus anthracis,* and *Bacillus cereus* var. *mycoides,'' Journal of Bacteriology,* vol. 75, p. 499, 1958, available at *http://www.ncbi.nlm.nih.gov/pmc/articles/PMC290100/pdf/jbacter00512-0024.pdf.*
6. Buck C. A., R .L. Anacker, F. S. Newman, et al., ''Phage Isolated from Lysogenic *Bacillus anthracis,'' Journal of Bacteriology,* vol. 85, p. 423, 1963, available at *http://jb.asm.org/content/85/6/1423.full.pdf+html?sid=c14df35d-1d7b-4cac-b55b-2097931a4623.*
7. Parry, J. M., P. C. B. Turnbull, and J. R. Gibson, *A Colour Atlas of Bacillus Species,* Wolfe Medical Publications Ltd., London, 1983.
8. Draft Guideline for Industry and Food and Drug Administration Staff, ''Class II Special Controls Guideline: *In Vitro* Diagnostic Devices for *Bacillus* spp. Detection,'' issued November 16, 2015, available at *http://www.fda.gov/downloads/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/UCM470760.pdf.*
9. ''Preliminary Regulatory Impact Analysis, Initial Regulatory Flexibility Analysis, and Unfunded Mandates Reform Act Analysis for Microbiology Devices; Classification of In Vitro Diagnostic Device for *Bacillus* Species Detection,'' available at *http://www.fda.gov/AboutFDA/ReportsManualsForms/Reports/EconomicAnalyses/default.htm.*


**List of Subjects in 21 CFR Part 866**

Biologics, Laboratories, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 866 is amended as follows:

## PART 866—IMMUNOLOGY AND MICROBIOLOGY DEVICES

■ 1. The authority citation for 21 CFR part 866 continues to read as follows:

**Authority:** 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

■ 2. Section 866.3045 is added to subpart D to read as follows:

**§ 866.3045 In vitro diagnostic device for ''Bacillus'' spp. detection.**

(a) *Identification.* An in vitro diagnostic device for *Bacillus* species (spp.) detection is a prescription device used to detect and differentiate among *Bacillus* spp. and presumptively identify *B. anthracis* and other *Bacillus* spp. from cultured isolates or clinical specimens as an aid in the diagnosis of anthrax and other diseases caused by *Bacillus* spp. This device may consist of *Bacillus* spp. antisera conjugated with a fluorescent dye (immunofluorescent reagents) used to presumptively identify bacillus-like organisms in clinical specimens; bacteriophage used for differentiating *B. anthracis* from other *Bacillus* spp. based on susceptibility to lysis by the phage; or antigens used to identify antibodies to *B. anthracis* (anti-toxin and anti-capsular) in serum. Bacillus infections include anthrax (cutaneous, inhalational, or gastrointestinal) caused by *B. anthracis,* and gastrointestinal disease and non-gastrointestinal infections caused by *B. cereus.*

(b) *Classification.* Class II (special controls). The special controls are set forth in FDA's guideline document entitled ''Class II Special Controls Guideline: In Vitro Diagnostic Devices for *Bacillus* spp. Detection; Guideline for Industry and Food and Drug Administration Staff.'' See § 866.1(e) for information on obtaining this document.

(c) The distribution of these devices is limited to laboratories that follow public health guidelines that address appropriate biosafety conditions, interpretation of test results, and coordination of findings with public health authorities.

(d) The use of this device is restricted to prescription use and must comply with the following:

(1) The device must be in the possession of:

(i)(A) A person, or his agents or employees, regularly and lawfully engaged in the manufacture,

transportation, storage, or wholesale or retail distribution of such device; or

(B) A practitioner, such as a physician, licensed by law to use or order the use of such device; and

(ii) The device must be sold only to or on the prescription or other order of such practitioner for use in the course of his professional practice.

(2) The label of the device shall bear the statement ''Caution: Federal law restricts this device to sale by or on the order of a ____'', the blank to be filled with the word ''physician'' or with the descriptive designation of any other practitioner licensed by the law of the State in which he practices to use or order the use of the device.

(3) Any labeling, as defined in section 201(m) of the FD&C Act, whether or not it is on or within a package from which the device is to be dispensed, distributed by, or on behalf of the manufacturer, packer, or distributor of the device, that furnishes or purports to furnish information for use of the device contains adequate information for such use, including indications, effects, routes, methods, and frequency and duration of administration and any relevant hazards, contraindications, side effects, and precautions, under which practitioners licensed by law to employ the device can use the device safely and for the purposes for which it is intended, including all purposes for which it is advertised or represented. This information will not be required on so-called reminder-piece labeling which calls attention to the name of the device but does not include indications or other use information.

(4) All labeling, except labels and cartons, bearing information for use of the device also bears the date of the issuance or the date of the latest revision of such labeling.

Dated: November 10, 2015.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2015–29275 Filed 11–16–15; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### 24 CFR Parts 965 and 966

**[Docket No. FR 5597–P–02]**

**RIN 2577–AC97**

### Instituting Smoke-Free Public Housing

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would require each public housing agency (PHA) administering public housing to implement a smoke-free policy. Specifically, this rule proposes that no later than 18 months from the effective date of the final rule, each PHA must implement a policy prohibiting lit tobacco products in all living units, indoor common areas in public housing, and in PHA administrative office buildings (in brief, a smoke-free policy for all public housing indoor areas). The smoke-free policy must also extend to all outdoor areas up to 25 feet from the housing and administrative office buildings. HUD proposes implementation of smoke-free public housing to improve indoor air quality in the housing, benefit the health of public housing residents and PHA staff, reduce the risk of catastrophic fires, and lower overall maintenance costs.

**DATES:** *Comment Due Date:* January 19, 2016.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposed rule. All communications must refer to the above docket number and title. There are two methods for submitting public comments.

1. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500.

2. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at *www.regulations.gov*. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make comments immediately available to the public. Comments submitted electronically through the *www.regulations.gov* Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

*Note:* To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule.

No Facsimile Comments. Facsimile (fax) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m., weekdays, at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the toll-free Federal Relay Service at 800–877–8339. Copies of all comments submitted are available for inspection and downloading at *www.regulations.gov*.

**FOR FURTHER INFORMATION CONTACT:** Leroy Ferguson, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410–0500; telephone number 202–402–2411 (this is not a toll-free number). Persons who are deaf or hard of hearing and persons with speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339.

**SUPPLEMENTARY INFORMATION:**

## I. Executive Summary

### *A. Purpose of the Proposed Rule*

The purpose of the proposed rule is to require PHAs to, within 18 months of the final rule, establish a policy prohibiting lit tobacco products, as such term is proposed to be defined in § 965.653(c). inside all indoor areas of public housing, including but not limited to living units, indoor common areas, electrical closets, storage units, and PHA administrative office buildings and in all outdoor areas within 25 feet of the housing and administrative office buildings (collectively, ''restricted areas''). As further discussed in this rule, such a policy is expected to improve indoor air quality in public housing, benefit the health of public housing residents and PHA staff, reduce the risk of catastrophic fires, and lower overall maintenance costs.

### *B. Summary of Major Provisions of the Proposed Rule*

This proposed rule would apply to all public housing, other than dwelling units in mixed-finance buildings. PHAs would be required, within 18 months of the effective date of the final rule, to establish policies prohibiting lit tobacco products in all restricted areas. PHAs may, but would not be required to, further restrict smoking to outdoor dedicated smoking areas outside the restricted areas, create additional restricted areas in which smoking is

prohibited (*e.g.,* near a playground), or, alternatively, make their entire grounds smoke-free.

PHAs would also be required to document their smoke-free policies in their PHA plans, a process that requires resident engagement and public meetings. The prohibition on lit tobacco would also be included in a tenant's lease, which may be done either through an amendment process or as tenants renew their leases annually.

*C. Costs and Benefits of This Proposed Rule*

The costs to PHAs of implementing smoke-free policies may include training, administrative, legal, and enforcement costs. Of these costs, HUD expects that the expense of additional enforcement efforts may be the highest. The costs of implementing a smoke-free policy as proposed by this rule are minimized by the fact that HUD guidance already exists on many of the topics covered by the smoke-free policy proposed to be required by this rule; that hundreds of PHAs have already voluntarily implemented smoke-free policies; and that infrastructure already exists for enforcement of lease violations, and violation of the smoke-free policy would be a lease violation. In addition, time spent by PHA staff on implementing and enforcing the smoke-free policy will be partially offset by the time that staff no longer have to spend mediating disputes among residents over smoking in secondhand smoke infiltration within living units. Given the existing HUD guidance, initial learning costs associated with implementation of a smoke-free policy may not be significant. For the hundreds of PHAs that are already implementing voluntary smoke-free policies, there will be minimal costs for these PHAs, and, generally, only if their existing policies are not consistent with the minimum requirements for smoke-free policies proposed by this rule.

The benefits of smoke free policies, however, could be considerable. Over 700,000 units would be affected by this rule (including over 500,000 units inhabited by elderly households or households with a non-elderly person with disabilities), and their non-smoking residents would have the potential to experience health benefits from a reduction of exposure to secondhand smoke. PHAs will also benefit from a reduction of damage caused by smoking, and residents and PHAs both gain from seeing a reduction in injuries, deaths, and property damage caused by fires. Estimates of these and other rule-induced impacts are summarized in the following table:

| Impact | Source | Amount (discount rates in parentheses) |
|---|---|---|
| Cost (potentially recurring but concentrated during first few years of the rule's implementation). | PHA Compliance | $3.2 million. |
| Cost (recurring) | Smoker Inconvenience | $209 million. |
| Cost (recurring) | Enforcement | Not quantified. |
| Benefit (recurring) | PHA Reduced Maintenance | $16 to $38 million. |
| Benefit (recurring) | PHA Reduced Fire Risk | $32 million. |
| Benefit (annualized over 10 to 50 years) | Non-Smoker Health | Less than: $148 to $447 million (3%) $70 to $137 million (7%). |
| Benefit (recurring) | Non-Smoker Well-Being (PHA residents who do not live in units with smokers). | $96 to $275 million. |
| Benefit (recurring) | Smoker Health | Not quantified. |
| Partially Quantified Net Benefits (recurring) | See above | Less than: −$19 to $302 million (3%) −$97 to −$8 million (7%) |

For additional details on the costs and benefits of this rule, please see the Regulatory Impact Analysis (RIA) for this rule, which can be found at *www.regulations.gov,* under the docket number for this rule. Information on how to view the RIA is included below.

## II. Background

*A. The Effects of Smoking on Health*

Tobacco smoking has been determined to be a cause of diseases of nearly all organs in the body, and research continues to newly identify diseases caused by smoking, including diabetes mellitus, rheumatoid arthritis, and colorectal cancer. In addition to causing multiple diseases and cancers, tobacco smoking has many other adverse effects on the body, including inflammation and impairment to the immune system.[1]

Adverse effects of tobacco use are not limited to the smoker. The U.S. Surgeon General estimates that exposure to secondhand tobacco smoke (*i.e.,* the smoke that comes from burning tobacco products and is exhaled by smokers) is responsible for the death of 41,000 adults non-smokers in the United States each year from lung cancer and heart disease.[2] Secondhand smoke (SHS) contains hundreds of toxic chemicals and is designated as a known human carcinogen by the U.S. Environmental Protection Agency, the U.S. National Toxicology Program, and the International Agency for Research on Cancer.[3] Exposure to SHS can also cause sudden infant death syndrome and respiratory symptoms such as cough and wheeze, middle ear infections, and slowed lung growth and reduced lung function in children, and increased risk of stroke in adults.[4] The Surgeon General has concluded that there is no risk-free level of exposure to SHS, and that eliminating smoking in indoor spaces fully protects nonsmokers from exposure to secondhand smoke. Separating smokers from nonsmokers, cleaning the air, and ventilating buildings cannot eliminate exposures of nonsmokers to secondhand smoke.[5]

The effects of SHS are especially damaging in children and unborn fetuses. The Surgeon General estimates that SHS is responsible for the death of hundreds of newborns from Sudden Infant Death Syndrome (SIDS) each year.[6] Lead in SHS is also a significant source of lead in house dust and children's blood. The CDC confirmed the association between SHS exposure

[1] Office of the Surgeon General, ''The Health Consequences of Smoking—50 Years of Progress,'' (2014), available at *http://www.surgeongeneral.gov/library/reports/50-years-of-progress/full-report.pdf.*

[2] *Id.*

[3] American Cancer Society, ''Secondhand Smoke,'' *http://www.cancer.org/cancer/cancercauses/tobaccocancer/secondhand-smoke.*

[4] 2014 Surgeon General's Report, footnote 1.

[5] U.S. Dept. of Health and Human Services, ''The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General,'' (2006), available at *http://www.surgeongeneral.gov/library/reports/secondhandsmoke/fullreport.pdf.*

[6] *Id.*

and blood-lead levels in youth and adults, concluding that youth with SHS exposure had blood lead levels high enough to result in adverse cognitive outcomes.[7]

Approximately half of the U.S. population is protected from SHS exposure through statewide, municipal, and federal laws prohibiting smoking in indoor areas of public places and worksites, including bars and restaurants. However, an estimated 58 million Americans remain exposed to secondhand smoke, including 15 million children ages 3 to 11. The home is the primary source of exposure for children.[8] Because SHS moves throughout buildings, individuals living in multiunit housing can be exposed to SHS even if no one smokes in their households. Surveys of multiunit housing residents indicate that 26 to 64 percent of residents reported SHS incursions into their units from external sources (*e.g.,* hallways or adjacent apartments), and 65 to 90 percent of the residents experiencing such incursions were bothered by them.[9]

The movement of contaminants from SHS within buildings has also been documented through direct measurements of fine particles (an environmental marker of SHS) in indoor air. SHS can move both from external hallways into apartments and between adjacent units.[10] A study of public housing documented lower concentrations of SHS contaminants in buildings covered by smoke-free policies (*i.e.,* policies prohibiting the smoking of tobacco products in all indoor spaces) compared to buildings without these policies.[11] Analysis of data from the National Health and Nutrition Examination Survey (NHANES) demonstrated evidence of greater SHS exposure among children (aged 6 to 18) living in multiunit housing through measurements of cotinine (a metabolite of nicotine) in their blood.[12] The study demonstrated that children living in non-smoking households in apartments had 45 percent higher levels of cotinine in their blood compared to children living in non-smoking households in detached homes. CDC researchers analyzed NHANES data over the period from 1999–2012 and reported that one of four nonsmokers (approximately 58 million people) continue to be exposed to SHS, with the highest exposures among children, non-Hispanic blacks, renters, and those living in poverty.[13]

The Surgeon General concluded in 2006 that separating smokers and nonsmokers, building ventilation, and cleaning the air cannot eliminate exposure to SHS; that can only be accomplished by eliminating smoking from indoor spaces.[14]

### *B. The Financial Costs of Smoking*

Beyond the increased costs associated with higher healthcare expenses, tobacco smoking can have profound financial impacts on PHAs and owners of other multiunit properties. Smoking is the leading cause of fire deaths in multiunit properties.[15] In 2011, smoking caused 17,600 residential fires resulting in 490 civilian deaths, 1,370 injuries, and $516 million in direct property damage.[16] Smoking is especially dangerous in units where a household member is receiving oxygen for medical purposes. Research conducted by the U.S. Fire Protection Association found that for fire deaths during the period from 2007–2011 in which oxygen administration equipment was cited as being involved in the ignition, 82 percent involved smoking materials as the heat source.[17]

Smoking is also associated with higher maintenance costs for landlords of multiunit housing. Smoking indoors increases the cost of rehabilitating a housing unit because of the need for additional cleaning, painting, and repair of damaged items at unit turnover compared to non-smoking units. The cost of cleaning and renovating a smoking unit adds up quickly, and smaller properties generally pay more per unit than larger properties when repairing smoking damage. A survey of public and subsidized housing managers found that the additional cost of rehabilitating the units of smokers averaged $1,250 to $2,955 per unit, depending on the intensity of smoking.[18] A study conducted in California found that the owners of multiunit housing could save over $18 million per year if the operators of all multiunit housing in the state adopted smoke-free building policies.[19] Researchers from the CDC estimated that a nationwide smoke-free public housing policy would result in an estimated annual cost savings of $152.91 million, including $42.99 million in reduced renovation costs and $15.92 million in averted fire losses.[20]

Self-imposed rules prohibiting smoking in individual households (referred to as smoke-free home rules) are becoming increasingly common in the United States. CDC researchers found that the prevalence of smoke-free home rules among U.S. households increased from 43 percent in 1992–1993 to 83 percent in 2010–2011, including an increase among households with at least one adult smoker, implying that the smokers in these households agree to smoke outside of the home.[21] Two

[7] Patricia Richter et al., ''Trends in Tobacco Smoke Exposure and Blood Lead Levels Among Youth and Adults in the United States: The National Health and Nutrition Examination Survey, 1999–2008,'' Preventing Chronic Disease, (December 19, 2013), available at *http://www.cdc.gov/pcd/issues/2013/pdf/13_0056.pdf.*

[8] 2006 Surgeon General's Report, footnote 5; David M. Homa et al., ''Vital Signs: Disparities in Nonsmokers' Exposure to Secondhand Smoke—United States, 1999–2012,'' Morbidity and Mortality Weekly Report (February 6, 2015), available at *http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6404a7.htm?s_cid=mm6404a7_w.*

[9] Kimberly Snyder et al., ''Smoke-free Multiunit Housing: A Review of the Scientific Literature,'' Tobacco Control (2015), available at *http://tobaccocontrol.bmj.com/content/early/2015/01/07/tobaccocontrol-2014-051849.short?rss=1.*

[10] Brian A. King et al., ''Secondhand Smoke Transfer in Multiunit Housing,'' 12 Nicotine and Tobacco Research 1133 (2010), available at *http://ntr.oxfordjournals.org/content/12/11/1133.*

[11] Elizabeth T. Russo, et al., ''Comparison of Indoor Air Quality in Smoke-Permitted and Smoke-Free Multiunit Housing: Findings from the Boston Housing Authority,'' 10 Nicotine and Tobacco Research 1093 (2014), available at *http://ntr.oxfordjournals.org/content/early/2014/08/25/ntr.ntu146.abstract?utm_source=rss&utm_medium=rss&utm_campaign=comparison-of-indoor-air-quality-in-smoke-permitted-and-smoke-free-multiunit-housing-findings-from-the-boston-housing-authority.*

[12] Karen M. Wilson et al., ''Tobacco-Smoke Exposure in Children Who Live in Multiunit Housing,'' 127 Pediatrics 85 (2011), available at *http://pediatrics.aappublications.org/content/127/1/85.full.pdf+html.*

[13] David M. Homa et al., ''Disparities in Nonsmokers Exposure to Secondhand Smoke in the United States, 1999–2012,'' Mortality and Morbidity Weekly Report, Early Release, 64 (February 3, 2015), available at *http://www.cdc.gov/mmwr/pdf/wk/mm64e0203a1.pdf.*

[14] U.S. Dept. of Health and Human Services. See footnote note 2.

[15] U.S. Fire Administration, Residential Structure and Building Fires, *http://www.usfa.fema.gov/downloads/pdf/publications/residential_structure_and_building_fires.pdf.*

[16] Marty Ahrens, Ntl. Fire Protection Assn., ''Home Structure Fires,'' (April 2013), available at *http://www.nfpa.org/~/media/Files/Research/NFPA%20reports/Occupancies/oshomes.pdf.*

[17] John R. Hall, Jr., Ntl. Fire Protection Assn., ''The Smoking-Material Fire Problem,'' (July 2013), available at *http://www.nfpa.org/~/media/Files/Research/NFPA%20reports/Major%20Causes/ossmoking.pdf.*

[18] Ntl. Ctr. For Healthy Hsg., ''Reasons to Explore Smoke-Free Housing,'' (Early Fall 2009), available at *http://www.nchh.org/portals/0/contents/nchh_green_factsheet_smokefree.pdf.*

[19] Michael K. Ong et al, ''Estimates of Smoking-Related Properties Costs in California Multiunit Housing,'' 102 Am J Public Health 490 (2012), available at *http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3487653/.*

[20] Brian King et al., ''National and State Cost Savings Associated With Prohibiting Smoking in Subsidized and Public Housing in the United States,'' Preventing Chronic Disease (October 2014), available at *http://www.cdc.gov/pcd/issues/2014/pdf/14_0222.pdf.*

[21] Brian A. King *et al.*, ''Prevalence of Smokefree Home Rules—United States, 1992–1993 and 2010–2011,'' Morbidity and Mortality Weekly Report

national surveys discussed by the CDC researchers identified voluntary smoke-free home rules among residents of multiunit housing in over 70 percent of those surveyed. Additionally, CDC researchers, reviewing published studies, found that the majority of residents in multiunit housing expressed support for a complete smoke-free building policy in six of eight reviewed studies.[22] The findings from these national and local surveys suggest that a smoke-free rule will be supported by a majority of public housing residents and will help those residents who already have a smoke-free home rule in place achieve the desired goal of eliminating the presence of SHS in their homes.

*C. Moving to Smoke-Free Public Housing Units*

HUD determined that the advantages of smoke-free housing policies were sufficient to warrant action by HUD to promote the voluntary adoption of smoke-free policies by PHAs and the owners/operators of federally subsidized multifamily properties. In 2009, HUD's Office of Public and Indian Housing published a notice that strongly encouraged PHAs to adopt smoke-free policies in at least some of the properties that they managed (this notice was reissued in 2012).[23] HUD's Office of Housing issued a similar program notice in 2010 that encouraged owners/operators of subsidized multifamily properties to adopt smoke-free policies (also reissued in 2012).[24] The notices describe the advantages of smoke-free policies, identify required and recommended actions in implementing smoke-free policies, and provide links to resources (*e.g.,* smoking cessation assistance for residents). In June 2012, HUD published more detailed information on smoke-free housing policies for residents and the providers of subsidized housing, referred to as ''smoke-free toolkits.''[25]

In October 2012, HUD also published a **Federal Register** notice that solicited feedback on the HUD's smoke-free housing initiative, specifically seeking information on topics such as best practices and practical strategies from housing providers who have implemented smoke-free policies, potential obstacles to policy implementation and how these could be overcome, suggestions for supporting housing providers and residents to facilitate policy implementation, and feedback from housing providers who have decided not to implement smoke-free policies.[26] HUD received many comments in response to this solicitation, largely from public health organizations and State and local health departments, expressing support for the concept and citing the great health risks posed by smoking and SHS.[27]

In 2014, HUD released additional guidance for PHAs and owners/agents of subsidized multifamily properties on implementing smoke-free policies. This guidance incorporates some of the feedback that HUD received from the 2012 **Federal Register** notice and includes summaries of interviews with nine early implementers of smoke-free housing policies, including administrators of public housing, subsidized multifamily housing, and market rate housing.[28] The guidance includes best practices around enforcement, especially graduated enforcement to assist residents with compliance and prevent evictions.

As a result of these combined actions, over 500 PHAs have implemented smoke-free policies in at least one of their buildings. While this voluntary effort has been highly successful, it has also resulted in a scattered distribution of smoke-free policies, with the greatest concentration in the Northeast, West, and Northwest, which also results in unequal protection from SHS for public housing residents. HUD recognizes that additional action is necessary to truly eliminate the risk of SHS exposure to public housing residents, reduce the risk of catastrophic fires, lower overall maintenance costs, and implement uniform requirements to ensure that all public housing residents are equally protected.

Therefore, HUD is proposing to require PHAs to implement smoke-free policies within public housing except for dwelling units in a mixed-finance project. Public housing is defined as low-income housing, and all necessary appurtenances (*e.g.,* community facilities, public housing offices, day care centers, and laundry rooms) thereto, assisted under the U.S. Housing Act of 1937 (the 1937 Act), other than assistance under section 8 of the 1937 Act.

While the smoke-free policy will also apply to scattered sites and single family properties, this requirement would not extend to public housing units that are part of a mixed-finance project because the PHA may not be the primary owner, and non-public housing units may be contained within the building. While smoking in single family units does not lead to smoke intrusion to adjacent units, the risk of fire and the increased unit turnover costs remain. Further, including all public housing units covered by this proposed rule means that all tenants will be treated equally and be subject to the same lease requirements. This prohibition on smoking would cover all types of lit tobacco products, including but not limited to cigarettes, cigars, and pipes. While the prohibition does not specifically cover waterpipe tobacco smoking (referred to as hookahs), such smoking involves lit charcoal and results in heating tobacco to temperatures high enough to produce secondhand smoke that contains harmful toxins.[29] For this reason, HUD is seeking comment on whether to include a prohibition on waterpipe tobacco in the final rule.

The prohibition on the use of lit tobacco products in this proposal does not include electronic nicotine delivery systems (ENDS), including electronic cigarettes (''e-cigarettes''). The absence of a prohibition on the use of e-cigarettes in this rule should not be read as an endorsement of e-cigarettes as an acceptable health alternative to cigarettes. The aerosol from ENDS typically contains nicotine derived from tobacco plants, and may contain other hazardous and potentially hazardous constituents such as formaldehyde and lead.[30] Accidental ingestion of nicotine liquid used in ENDS can cause acute nicotine toxicity in children, accounting

(Sept. 5, 2014), available at *http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6335a1.htm*.

[22] Kimberly Snyder *et al.*, supra note 9.

[23] PIH Notices 2009–21, ''Non-Smoking Policies in Public Housing'' and 2012–25, ''Smoke-Free Policies in Public Housing'', available at *http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/notices/pih*.

[24] Housing Notices 2010–21, ''Optional Smoke-Free Housing Policy Implementation'' and 2012–22, ''Further Encouragement for O/As to Adopt Optional Smoke-Free Housing Policies,'' available at *http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/notices/hsg*.

[25] See: *http://portal.hud.gov/hudportal/HUD?src=/smokefreetoolkits1*.

[26] 77 FR 60712, ''Request for Information on Adopting Smoke-Free Policies in PHAs and Multifamily Housing'' (October 4, 2012).

[27] All public comments submitted on the October 4, 2012, notice can be found under docket 5597–N–01 in the *www.regulations.gov* portal at *http://www.regulations.gov/#!docketDetail;D=HUD-2012-0103*.

[28] See: *http://portal.hud.gov/hudportal/documents/huddoc?id=SFGuidanceManual.pdf*.

[29] See World Health Organization. Advisory note: waterpipe tobacco smoking: 2nd edition (2015), available at *http://www.who.int/tobacco/publications/prod_regulation/waterpipesecondedition/en/*.

[30] See Offerman, F.J. The hazards of e-cigarettes. June, 2014. ASHRAE Journal. See also National Institute for Occupational Safety and Health, ''Promoting Health and Preventing Disease and Injury Through Workplace Tobacco Policies,'' Current Intelligence Bulletin 67 (2015), available at *http://www.cdc.gov/niosh/docs/2015-113/pdfs/fy15_cib-67_2015-113_v3.pdf*.

for an increasing proportion of exposure calls to poison control centers.[31] ENDS may also present an additional enforcement challenge for PHAs that are implementing smoke-free policies because the user may appear to be smoking a conventional cigarette. In light of growing health concerns regarding exposure to the aerosol of these products among non-users, especially children and pregnant women, HUD is seeking additional comments on the issue of ENDS, and may prohibit the use of these products in public housing in the final rule. HUD encourages PHAs that already have smoke-free policies to consider whether ENDS should be included in their smoke-free policies.

In proposing this policy, it is important for HUD to clarify that HUD's proposal does not prohibit individual PHA residents from smoking. PHAs should continue leasing to persons who smoke. This rule is not intended to contradict HUD's goals to end homelessness and help all Americans secure quality housing. Rather, HUD is proposing a prohibition on smoking inside public housing living units and indoor common areas, public housing administrative office buildings, public housing community rooms or community facilities, public housing day care centers and laundry rooms, in outdoor areas within 25 feet of the housing and administrative office buildings, and in other areas designated by a PHA as smoke-free (collectively, ''restricted areas''). PHAs will have the discretion to establish outside designated smoking locations outside of the required 25 feet perimeter, which may include partially enclosed structures, to accommodate smoking residents, to establish additional smoke-free areas (such as around a playground), or, alternatively, to make their entire grounds smoke-free. In addition, section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act provides the participant the right to seek a reasonable accommodation, including requests from residents with mobility-impairment or mental disability. A request for a reasonable accommodation from an eligible participant must at least be considered, and granted in appropriate circumstances. To assist PHAs, HUD will work with its Office of Fair Housing and Equal Opportunity to develop guidance on accommodating persons with a disability related to smoke-free policies. The guidance will be informed by comments on the proposed rule and issued in advance of the final rule.

The benefits of this proposed regulatory action may be substantial, and beneficiaries include both PHAs and residents of public housing. Over 700,000 units would be affected by this rule (including over 500,000 units inhabited by elderly households or households with a non-elderly person with disabilities), and their residents would have the potential to experience health benefits from a reduction of exposure to secondhand smoke. There are also over 775,000 children in these units. PHAs will benefit from a reduction of damage and renovation costs caused by smoking. Both residents and PHAs will gain from reducing deaths, injuries, and property damage caused by fires. The costs to PHAs of implementing the smoke-free policy proposed by this rule may include training, administrative, legal, and enforcement costs. Of these costs to PHAs, HUD expects that the expense of additional enforcement efforts may be the highest. The costs of implementing the smoke-free policy proposed by this rule are minimized by the fact that HUD guidance already exists on many of the topics covered by the proposed regulatory changes, and that over 500 PHAs have already implemented smoke-free policies. Given the existence of this HUD guidance, initial learning costs associated with implementation of a smoke-free policy as proposed by this rule may not be significant.

There may be costs to residents as a result of eviction, particularly for persons with disabilities, and especially those with mobility impairments. HUD recognizes that this rule could adversely impact those with mobility impairment or particular frailties that prevent them from smoking in designated areas. As mentioned above, HUD will develop guidance on reasonable accommodation, and HUD solicits public comment on how to mitigate these potential adverse impacts.

HUD recognizes that PHAs developing smoke-free housing policies may need technical assistance in writing the policies, engaging residents, and assisting residents who want to stop smoking. HUD will continue to provide free webinars and training sessions addressing these and related topics. PHAs are encouraged to work with their State HUD office, State and local tobacco prevention and cessation programs, state and community health organizations, and the Environmental Protection Agency's community-based asthma program network (*www.asthmacommunitynetwork.org*). CDC provides funding and technical assistance to State tobacco prevention and control programs and prevention and smoking cessation programs in every state and the District of Columbia (see *http://www.cdc.gov/tobacco/stateandcommunity/tobacco_control_programs/ntcp/index.htm*). Contact information for local organizations will be provided through HUD's Web site on a page dedicated to smoke-free resources that is under development.

*D. Discussions With Stakeholders*

In addition to the October 2012 **Federal Register** notice soliciting information on adopting smoke-free policies in HUD subsidized housing, in March 2015, HUD reached out to organizations representative of the interests and concerns of PHAs to solicit feedback on moving forward with smoke-free policies in public housing. The organizations expressed support for smoke-free policies but also requested that any regulations requiring smoke-free policies allow sufficient flexibility for PHAs to tailor such policies to their local conditions. In this rule, HUD has strived to provide such flexibility.

**III. This Proposed Rule—Summary of Changes**

*Applicability (§ 965.651)*

As stated above, this proposal would apply to all PHAs of any size and Moving-to-Work (MTW) agencies, but it would only apply to public housing, and would not apply to dwelling units in a mixed-finance project. Public housing is defined as low-income housing, and all necessary appurtenances (*e.g.,* community facilities, public housing offices, day care centers and laundry rooms) assisted under the U.S. Housing Act of 1937 (the 1937 Act), other than assistance under section 8 of the 1937 Act.

*Requirements (§ 965.653)*

In § 965.653, HUD provides that a PHA's smoke-free policy must prohibit all ''lit tobacco products.'' HUD proposes to define ''lit tobacco products'' as all lit tobacco products that involve the ignition and burning of tobacco leaves such as cigarettes, cigars, and pipes. HUD is proposing to require that PHAs prohibit all lit tobacco products not only in dwelling units, but also within indoor common areas and in outdoor areas within 25 feet of the housing and any PHA administrative office buildings (the ''restricted areas''). Outside of these areas, PHAs would be permitted to limit smoking to outdoor

[31] CDC. Notes from the field: Calls to Poison Centers for Exposures to Electronic Cigarettes—United States, September 2010–February 2014. MMWR 2014;63:292–93.

designated smoking areas, which may include partially enclosed structures to accommodate residents who smoke, or, alternatively, to make their entire grounds smoke-free. PHAs that are not making the entire grounds smoke-free are encouraged to work with their residents to identify outdoor designated smoking areas that are accessible within the grounds of the public housing or administrative office buildings, that are not frequented by children (*e.g.,* not a playground), and that are situated in a way that minimizes nonsmoking residents' exposure to secondhand smoke. While not required, a designated smoking area with shade and benches may assist residents with compliance.

*Implementation (§ 965.653)*

HUD is proposing to provide PHAs 18 months from the effective date of the final rule to implement smoke-free public housing, as proposed by this rule. HUD believes that 18 months will provide PHAs sufficient time to conduct resident engagement, to hold any public meetings that are required to amend their PHA plans, and to incorporate the required new lease provisions during tenants' recertifications or at a date before the policy is fully effective. PHAs that already have a smoke-free policy in effect will be required to review their existing policies for compliance with the requirements of this rule, as presented in the final rule, and amend their policies as necessary in the same timeframe of 18 months from the effective date of the final rule in order to implement smoke-free public housing, consistent with the requirements of the final rule.

In addition, HUD is proposing to require PHAs to amend their PHA plans to incorporate the smoke-free policy. If the PHA determines the imposition of a smoke-free policy is a significant amendment to the PHA plan, the PHA must conduct public meetings in accordance with standard PHA Plan amendment procedures, and these meetings must be held in accessible buildings and provided in accessible formats, as necessary, for persons with disabilities and those who are limited in English proficiency. HUD would recommend that all PHAs conduct meetings with residents to fully explain the smoke-free building requirements and to best determine which outside areas, if any, to designate as smoking areas and to accommodate the needs of all residents.

*Lease Provisions (§ 966.4)*

HUD believes that the best way to implement smoke-free policies is to incorporate the prohibition on indoor smoking in the leases each tenant must sign. This will allow PHAs to use enforcement mechanisms already in place and provide an additional notification of the policy to tenants. HUD expects PHAs to follow the PIH administrative grievance procedures during enforcement of their smoke-free housing policies. Because some tenants may not be recertified before the policy takes effect, PHAs may require that all remaining leases be amended, or may establish their own schedule for lease amendments, provided that all leases are amended by the effective date of the policy.

## IV. Specific Questions for Comments

While HUD welcomes comments on all aspects of this proposed rule, HUD is seeking specific comment on the following questions:

1. What barriers that PHAs could encounter in implementing smoke-free housing? What costs could PHAs incur? Are there any specific costs to enforcing such a policy?

2. Does this proposed rule adequately address the adverse effects of smoking and secondhand smoke on PHAs and PHA residents?

3. Does this proposed rule create burdens, costs, or confer benefits specific to families, children, persons with disabilities, owners, or the elderly, particularly if any individual or family is evicted as a result of this policy?

4. For those PHAs that have already implemented a smoke-free policy, what exceptions to the requirements have been granted based on tenants' requests?

5. For those PHAs that have already implemented a smoke-free policy, what experiences, lessons, or advice would you share based on your experiences with implementing and enforcing the policy?

6. For those PHAs that have already implemented a smoke-free policy, what tobacco cessation services were offered to residents to assist with the change? Did you establish partnerships with external groups to provide or refer residents to these services?

7. Are there specific areas of support that HUD could provide PHAs that would be particularly helpful in the implementation of the proposed rule?

8. Should the policy extend to electronic nicotine delivery systems, such as e-cigarettes?

9. Should the policy extend to waterpipe tobacco smoking? Does such smoking increase the risk of fire or property damage?

## V. Findings and Certifications

*Executive Order 12866, Regulatory Planning and Review*

The Office of Management and Budget (OMB) reviewed this proposed rule under Executive Order 12866 (entitled ''Regulatory Planning and Review''). OMB determined that this rule was economically significant under the order. The docket file is available for public inspection in the Regulations Division, Office of General Counsel, U.S. Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500. The initial Regulatory Impact Analysis (RIA) prepared for this rule is also available for public inspection in the Regulations Division and may be viewed online at *www.regulations.gov,* under the docket number above, or on HUD's Web site at *http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/ia/*. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at (202) 708–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Relay Service at (800) 877–8339.

*Information Collection Requirements*

The information collection requirements contained in this proposed rule have been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB control number 2577–0226. In accordance with the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid OMB control number.

*Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This rule will not impose any federal mandates on any state, local, or tribal governments or the private sector within the meaning of UMRA.

*Environmental Review*

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR part 50 that

implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The Finding is available for public inspection during regular business hours in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the Finding by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Relay Service at 800–877–8339.

*Impact on Small Entities*

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule prohibits smoking of tobacco in all indoor areas of and within 25 feet of any public housing and administrative office buildings for all PHAs, regardless of size.

There are 2334 ''small'' PHAs (defined as PHAs with fewer than 250 units), which make up 75 percent of the public housing stock across the country. Of this number, approximately 378 have already instituted a voluntary full or partial policy on indoor tobacco smoking.

HUD anticipates that implementation of the policy will impose minimal additional costs, as creation of the smoke-free policy only requires amendment of leases and the PHA plan, both of which may be done as part of a PHA's normal course of business. Additionally, enforcement of the policy will add minimal incremental costs, as PHAs must already regularly inspect public housing units and enforce lease provisions. Any costs of this rule are mitigated by the fact that PHAs have up to 18 months to implement the policy, allowing for costs to be spread across that time period.

While there are significant benefits to the smoke-free policy requirement, the majority of those benefits accrue to the public housing residents themselves, not to the PHAs. PHAs will realize monetary benefits due to reduced unit turnover costs and reduced fire and fire prevention costs, but these benefits are variable according to the populations of each PHA and the PHA's existing practices.

Finally, this rule does not impose a disproportionate burden on small PHAs. The rule does not require a fixed expenditure; rather, all costs should be proportionate to the size of the PHA implementing and enforcing the smoke-free policy.

Therefore, the undersigned certifies that this rule will not have a significant impact on a substantial number of small entities.

Notwithstanding HUD's view that this rule will not have a significant effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in the preamble.

*Executive Order 13132, Federalism*

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments or is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This final rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments nor preempt state law within the meaning of the Executive Order.

*Catalog of Federal Domestic Assistance*

The Catalog of Federal Domestic Assistance number for the Public Housing program is 14.872.

**List of Subjects**

*24 CFR Part 965*

Government procurement, Grant programs-housing and community development, Lead poisoning, Loan programs-housing and community development, Public housing, Reporting and recordkeeping requirements, Utilities.

*24 CFR Part 966*

Grant programs-housing and community development, Public housing, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, HUD proposes to amend 24 CFR parts 965 and 966 as follows:

## PART 965—PHA-OWNED OR LEASED PROJECTS—GENERAL PROVISIONS

■ 1. The authority citation for 24 CFR part 965 continues to read as follows:

**Authority:** 42 U.S.C. 1547, 1437a, 1437d, 1437g, and 3535(d). Subpart H is also issued under 42 U.S.C. 4821–4846.

■ 2. Add subpart G to read as follows:

**Subpart G—Smoke-Free Public Housing**

965.651 Applicability
965.653 Smoke-free public housing
965.655 Implementation

## Subpart G—Smoke-Free Public Housing

### § 965.651 Applicability.

This subpart applies to public housing units, except for dwelling units in a mixed-finance project. Public housing is defined as low-income housing, and all necessary appurtenances (*e.g.,* community facilities, public housing offices, day care centers, and laundry rooms) thereto, assisted under the U.S. Housing Act of 1937 (the 1937 Act), other than assistance under section 8 of the 1937 Act.

### § 965.653 Smoke-free public housing.

(a) *In general.* PHAs must design and implement a policy prohibiting the use of lit tobacco products in all public housing living units and interior common areas (including but not limited to hallways, rental and administrative offices, community centers, day care centers, laundry centers, and similar structures), as well as in outdoor areas within 25 feet from public housing and administrative office buildings (collectively, ''restricted areas'') in which public housing is located.

(b) *Designated smoking areas.* PHAs may limit smoking to designated smoking areas on the grounds of the public housing or administrative office buildings, which may include partially enclosed structures, to accommodate residents who smoke. These areas must be outside of any restricted areas, as defined in paragraph (a) of this section. Alternatively, PHAs may choose to create additional smoke-free areas outside the restricted areas or to make their entire grounds smoke-free.

(c) *Lit tobacco products.* Lit tobacco products are those that involve the ignition and burning of tobacco leaves, such cigarettes, cigars, and pipes. A PHA's smoke-free policy must, at a minimum, include a prohibition on the use of all lit tobacco products.

### § 965.655 Implementation.

(a) *Amendments.* PHAs are required to implement the requirements of this subpart by amending each of the following:

(1) All applicable PHA plans, according to the provisions in 24 CFR part 903.

(2) Tenant leases, according to the provisions of 24 CFR 966.4.

(b) *Deadline.* All PHAs must be in full compliance, with effective policy amendments, by [*INSERT, AT THE FINAL RULE STAGE, THE DATE THAT IS 540 DAYS AFTER THE EFFECTIVE DATE OF THE FINAL RULE*].

## PART 966—PUBLIC HOUSING LEASE AND GRIEVANCE PROCEDURE

■ 3. The authority section for 24 CFR part 966 continues to read as follows:

**Authority:** 42 U.S.C. 1437d and 3535(d).

■ 4. In § 966.4, revise paragraphs (f) (12) (i) and (ii) to read as follows:

### § 966.4 Lease Requirements.

* * * * *

(f) * * *

(12) * * *

(i) To assure that no tenant, member of the tenant's household, or guest engages in:

(A) *Criminal activity.* (*1*) Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents;

(*2*) Any drug-related criminal activity on or off the premises; or

(B) *Civil activity.* For any units covered by 24 CFR part 965, subpart G, any smoking of lit tobacco products in restricted areas, as defined by 24 CFR 965.653(a), or in other outdoor areas that the PHA has designated as smoke-free.

(ii) To assure that no other person under the tenant's control engages in:

(A) *Criminal activity.* (*1*) Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents;

(*2*) Any drug-related criminal activity on the premises; or

(B) *Civil activity.* For any units covered by 24 CFR part 965, subpart G, any smoking of lit tobacco products in restricted areas, as defined by 24 CFR 965.653(a), or in other outdoor areas that the PHA has designated as smoke-free.

* * * * *

Dated: October 22, 2015.

**Lourdes Castro Ramírez,**

*Principal Deputy Assistant Secretary for Public and Indian Housing.*

[FR Doc. 2015–29346 Filed 11–16–15; 8:45 am]

BILLING CODE 4210–67–P

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## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## 26 CFR Part 1

**[REG–123640–15]**

**RIN 1545–BM86**

## Administration of Multiemployer Plan Participant Vote on an Approved Suspension of Benefits Under MPRA; Hearing

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of public hearing on proposed rulemaking.

**SUMMARY:** This document provides notice of public hearing on proposed regulations relating to the administration of a multiemployer plan participant vote on an approved suspension of benefits under the Multiemployer Pension Reform Act of 2014 (MPRA) that were issued in the Proposed Rules section of the **Federal Register** on September 2, 2015.

**DATES:** The public hearing is being held on Friday, December 18, 2015, at 10 a.m. The IRS must receive outlines of the topics to be discussed at the public hearing by Monday, November 30, 2015.

**ADDRESSES:** The public hearing is being held in the IRS Auditorium, Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, DC 20224.

Send submissions to CC:PA:LPD:PR (REG–123640–15), Room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday to CC:PA:LPD:PR (REG–132634–14), Couriers Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC or sent electronically via the Federal eRulemaking Portal at *www.regulations.gov* (IRS–2015–0041).

**FOR FURTHER INFORMATION CONTACT:** Concerning the regulations, the Department of the Treasury MPRA guidance information line at (202) 622–1559; concerning submissions of comments, the hearing and/or to be placed on the building access list to attend the hearing Regina Johnson at (202) 317–6901 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:** The subject of the public hearing is the notice of proposed rulemaking (REG–123640–15) that was published in the **Federal Register** on Wednesday, September 2, 2015 (80 FR 53068). The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing and who submitted written comments by November 2, 2015 must submit an outline of the topics to be addressed and the amount of time to be devoted to each topic by Monday, November 30, 2015.

A period of 10 minutes is allotted to each person for presenting oral comments. After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing or in the Freedom of Information Reading Room (FOIA RR) (Room 1621) which is located at the 11th and Pennsylvania Avenue NW. entrance, 1111 Constitution Avenue NW., Washington, DC.

Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this document.

**Martin V. Franks,**

*Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).*

[FR Doc. 2015–29289 Filed 11–16–15; 8:45 am]

BILLING CODE 4830–01–P

# Notices

Federal Register

Vol. 80, No. 221

Tuesday, November 17, 2015

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the Michigan Advisory Committee for a Meeting To Begin Preparations for a Public Hearing Regarding the Civil Rights Impact of Civil Asset Forfeiture in the State

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

**ACTION:** Announcement of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Michigan Advisory Committee (Committee) will hold a meeting on Friday, December 18, 2015, at 9:30 a.m. EST for the purpose of discussing preparations for a public hearing on the civil rights impact of civil forfeiture practices in the State. The Committee met on October 30, 2015 and approved a project proposal to take up a study on this topic and potential disparate impact or denial of equal protection under the law on the basis of federally protected classes.

Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 888–455–2296, conference ID: 4597163. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement at the end of the meeting. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Regional Programs Unit, U.S. Commission on Civil Rights, 55 W. Monroe St., Suite 410, Chicago, IL 60615. They may also be faxed to the Commission at (312) 353–8324, or emailed to Administrative Assistant, Carolyn Allen at *callen@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meeting at *http://facadatabase.gov/committee/meetings.aspx?cid=255.* Click on the ''Meeting Details'' and ''Documents'' links to download. Records generated from this meeting may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meeting. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

#### Agenda

Welcome and Introductions
 Donna Budnick, Chair

Review and Discussion of Hearing Preparations:
 *Civil Rights Impact of Civil Forfeiture Practices in Michigan*

Public Comment

Adjournment

**DATES:** The meeting will be held on Friday, December 18, 2015, at 9:30 a.m. EST.

*Public Call Information:*

Dial: 888–455–2296

Conference ID: 4597163

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

Dated: November 10, 2015.

**David Mussatt,**

*Chief, Regional Programs Unit.*

[FR Doc. 2015–29256 Filed 11–16–15; 8:45 am]

BILLING CODE 6335–01–P

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the Missouri Advisory Committee To Discuss Themes and Findings Resulting From Testimony Received Regarding Civil Rights and Police/Community Interactions in the State

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

**ACTION:** Notice of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Missouri Advisory Committee (Committee) will hold a meeting on Wednesday January 20, 2016, for the purpose of discussing oral and written testimony received during two public meetings focused on civil rights and police and community interactions in Missouri. Themes and findings discussed during this meeting will form the basis of a report to be issued to the Commission on this topic.

Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 888–430–8709, conference ID: 8351674. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur regular charges for calls they initiate over wireless lines according to their wireless plan, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within thirty days following the meeting. Written comments may be mailed to the

Midwestern Regional Office, U.S. Commission on Civil Rights, 55 W. Monroe St., Suite 410, Chicago, IL 60615. They may also be faxed to the Commission at (312) 353–8324, or emailed to Carolyn Allen at *callen@usccr.gov.* Persons who desire additional information may contact the Midwestern Regional Office at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Midwestern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available at *https://database.faca.gov/committee/meetings.aspx?cid=258.* Click on ''meeting details'' and ''documents'' to download. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Midwestern Regional Office at the above email or street address.

## Agenda

*Welcome and Introductions*

Committee Discussion: Themes and findings resulting from Committee hearings on Civil Rights and Police/Community Relations in Missouri. *(February 23, 2015 St. Louis; August 20, 2015 Kansas City)*

*Open Comment*

Recommendations and Next Steps

**DATES:** The meeting will be held on Wednesday, January 20, 2015, at 12:00 p.m. CST.

*Public Call Information:*
Dial: 888–430–8709
Conference ID: 8351674

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

Dated November 10, 2015.

**David Mussatt,**

*Chief, Regional Programs Unit.*

[FR Doc. 2015–29254 Filed 11–16–15; 8:45 am]

BILLING CODE 6335–01–P

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the Indiana Advisory Committee to Begin Planning a Series of Public Hearings to Study Civil Rights and the School to Prison Pipeline in Indiana

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

**ACTION:** Announcement of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Indiana Advisory Committee (Committee) will hold a meeting on Wednesday, December 2, 2015, from 12:00–1:00 p.m. EST for the purpose of preparing for a series of public hearings to study Civil Rights and the School to Prison Pipeline in Indiana.

Members of the public may listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 888–438–5453 conference ID: 2772442. Any interested member of the public may call this number and listen to the meeting. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Member of the public are also invited to make statements during the scheduled open comment period. In addition, members of the public may submit written comments; the comments must be received in the regional office within 30 days after the Committee meeting. Written comments may be mailed to the Regional Programs Unit, U.S. Commission on Civil Rights, 55 W. Monroe St., Suite 410, Chicago, IL 60615. They may also be faxed to the Commission at (312) 353–8324, or emailed to Administrative Assistant, Carolyn Allen at *callen@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records and documents discussed during the meeting will be available for public viewing prior to and following the meeting at *https://database.faca.gov/committee/meetings.aspx?cid=247* and clicking on the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meeting. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

## Agenda

1. Welcome and Roll Call
2. Preparatory Discussion Regarding Public Hearing ''*Civil Rights and the School to Prison Pipeline in Indiana*''
   a. Agenda of Panelists
   b. Location
   c. Date and Time
   d. Schedule of Events
3. Open Comment
4. Adjournment

**DATES:** The meeting will be held on Wednesday December 2, 2015, from 12:00–1:00 p.m. EST.

*Public Call Information*

Dial: 888–438–5453
Conference ID: 2772442

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

Dated: November 10, 2015.

**David Mussatt,**

*Chief, Regional Programs Unit.*

[FR Doc. 2015–29255 Filed 11–16–15; 8:45 am]

BILLING CODE 6335–01–P

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[B–76–2015]**

### Foreign-Trade Zone (FTZ) 238—Dublin, Virginia, Notification of Proposed Production Activity, CEI-Roanoke, LLC, (Cosmetics and Personal Care Products Bottling), Roanoke, Virginia

The New River Valley Economic Development Alliance, grantee of FTZ 238, submitted a notification of proposed production activity to the FTZ Board on behalf of CEI-Roanoke, LLC (CEI), located in Roanoke, Virginia. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on November 6, 2015.

The CEI facility is located at 4411 Plantation Road NE., Roanoke, Virginia. A separate application for subzone designation at the CEI facility has been submitted and will be processed under Section 400.31 of the FTZ Board's regulations. The facility is used for the bottling of cosmetics and personal care products. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt CEI from customs duty

payments on the foreign status components used in export production. On its domestic sales, CEI would be able to choose the duty rates during customs entry procedures that apply to bottles of cosmetics and personal care products (skin protection creams/lotions, shampoos and conditioners, hair sprays, deodorant/antiperspirants, after shave lotions, make-ups, exfoliants, skin preparations, cleansers, bath preparations, teeth whiteners, and moisturizing creams) (duty rate ranges from free to 5.8%) for the foreign status components noted below. Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The components sourced from abroad include: Plastic bottles/containers/caps/lids/bottle collars/jars/tubes; glass bottles; decorative charms on chains; metal bottle collars/caps/lids; scent sprayers; and, scent pumps (duty rate ranges from free to 5.3%).

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is December 28, 2015.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

**FOR FURTHER INFORMATION CONTACT:** Pierre Duy at *Pierre.Duy@trade.gov* or (202) 482–1378.

Dated: November 9, 2015.

**Elizabeth Whiteman,**

*Acting Executive Secretary.*

[FR Doc. 2015–29366 Filed 11–16–15; 8:45 am]

**BILLING CODE 3510–DS–P**

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–557–816]**

### Certain Steel Nails From Malaysia: Initiation of Antidumping Duty Changed Circumstances Review

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

**DATES:** *Effective Date:* November 17, 2015

**SUMMARY:** In response to a request from Mid Continent Steel & Wire, Inc. (Petitioner), the Department of Commerce (the Department) is initiating a changed circumstances review of the antidumping duty order on certain steel nails from Malaysia.

**FOR FURTHER INFORMATION CONTACT:** Dena Crossland or Angelica Townshend, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3362 or (202) 482–3019, respectively.

**SUPPLEMENTARY INFORMATION:**

#### Background

As a result of the antidumping duty order issued following the completion of the less-than-fair-value investigation of certain steel nails (steel nails) from Malaysia, imports of steel nails from mandatory respondent Inmax Sdn. Bdh. (Inmax Sdn) became subject to a cash deposit rate of 39.35 percent.[1] During the investigation, the Department did not collapse Inmax Sdn with an affiliated company, Inmax Industries, since Inmax Industries was not operational during the period of investigation (*i.e.,* April 1, 2013, through March 31, 2014).[2] Accordingly, any sales made by companies other than the mandatory respondents Inmax Sdn, Region International Co. Ltd., Region Systems Sdn. Bhd., and Tag Fasteners Sdn. Bhd., were subject to the ''all others'' rate of 2.66 percent. On September 2, 2015, the Department received a request from Petitioner to initiate a changed circumstances review of the *Order* alleging that since the imposition of the *Order,* Inmax Sdn has been evading the cash deposit rates established in the investigation by shipping its production through Inmax Industries which enters merchandise under the lower, ''all others'' rate. On October 15, 2015, the Department received a letter from Inmax Sdn and Inmax Industries requesting that the Department deny Petitioner's request. On October 23, 2015, Petitioner submitted a letter in response to the comments from Inmax Sdn and Inmax Industries' letter.

#### Scope of the Order

The product covered by this changed circumstances review is certain steel nails from Malaysia. For a full description of the scope of the order, *see* Appendix I to this notice.

#### Initiation of Changed Circumstances Review

Pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act), the Department will conduct a changed circumstances review upon receipt of information concerning, or a request from an interested party of, an antidumping duty order which shows changed circumstances sufficient to warrant a review of the order. However, section 751(b)(4) of the Tarriff Act of 1930 also provides that the administering authority may not conduct a changed circumstance review of an investigation determination within 24 months of the date of the investigation determination in the absence of ''good cause.'' In its request for initiation, Petitioner provided information indicating that since the *Order,* there has been a change in the trading patterns and activities of Inmax Sdn and Inmax Industries. Petitioner asserts that the information provided demonstrates that the *Order* is being evaded. In accordance with 19 CFR 351.216(c), based on the information provided by Petitioner regarding new trading patterns and possible evasion of the *Order,* the Department finds that there is sufficient information and ''good cause'' to initiate a changed circumstances review. Therefore, we are initiating a changed circumstances administrative review pursuant to section 751(b)(1) of the Act and 19 CFR 351.216(c) and (d) to determine whether action is necessary to maintain the integrity of the *Order.* The Department intends to publish in the **Federal Register** a notice of preliminary results of the antidumping duty changed circumstances review in accordance with 19 CFR 351.221(b)(4) and 351.221(c)(3)(i), which will set forth the Department's preliminary factual and legal conclusions. The Department will issue its final results of review in accordance with the time limits set forth in 19 CFR 351.216(e).

This notice is in accordance with section 751(b)(1) of the Act.

[1] *See Certain Steel Nails from Malaysia: Amended Final Determination of Sales at Less Than Fair Value,* 80 FR 34370 (June 16, 2015) (*Amended Final*); *Certain Steel Nails from the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, and the Socialist Republic of Vietnam: Antidumpig Duty Orders,* 80 FR 39994 (July 13, 2015) (*Order*).

[2] *See Decision Memorandum for the Preliminary Determination in the Antidumping Duty Investigation of Certain Steel Nails from Malaysia,* and the accompanying decision memorandum at 10–13 (December 17, 2014); unchanged in the final determination, 80 FR 28969 (May 20, 2015) and *Amended Final.*

Dated: November 9, 2015.

**Christian Marsh,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

## Appendix I

Scope of the Order

The merchandise covered by the order is certain steel nails having a nominal shaft length not exceeding 12 inches.[3] Certain steel nails include, but are not limited to, nails made from round wire and nails that are cut from flat-rolled steel. Certain steel nails may be of one piece construction or constructed of two or more pieces. Certain steel nails may be produced from any type of steel, and may have any type of surface finish, head type, shank, point type and shaft diameter. Finishes include, but are not limited to, coating in vinyl, zinc (galvanized, including but not limited to electroplating or hot dipping one or more times), phosphate, cement, and paint. Certain steel nails may have one or more surface finishes. Head styles include, but are not limited to, flat, projection, cupped, oval, brad, headless, double, countersunk, and sinker. Shank styles include, but are not limited to, smooth, barbed, screw threaded, ring shank and fluted. Screw-threaded nails subject to this proceeding are driven using direct force and not by turning the nail using a tool that engages with the head. Point styles include, but are not limited to, diamond, needle, chisel and blunt or no point. Certain steel nails may be sold in bulk, or they may be collated in any manner using any material.

Excluded from the scope of this investigation are certain steel nails packaged in combination with one or more non-subject articles, if the total number of nails of all types, in aggregate regardless of size, is less than 25. If packaged in combination with one or more non-subject articles, certain steel nails remain subject merchandise if the total number of nails of all types, in aggregate regardless of size, is equal to or greater than 25, unless otherwise excluded based on the other exclusions below.

Also excluded from the scope are certain steel nails with a nominal shaft length of one inch or less that are (a) a component of an unassembled article, (b) the total number of nails is sixty (60) or less, and (c) the imported unassembled article falls into one of the following eight groupings: (1) builders' joinery and carpentry of wood that are classifiable as windows, French-windows and their frames; (2) builders' joinery and carpentry of wood that are classifiable as doors and their frames and thresholds; (3) swivel seats with variable height adjustment; (4) seats that are convertible into beds (with the exception of those classifiable as garden seats or camping equipment); (5) seats of cane, osier, bamboo or similar materials; (6) other seats with wooden frames (with the exception of seats of a kind used for aircraft or motor vehicles); (7) furniture (other than seats) of wood (with the exception of i) medical, surgical, dental or veterinary furniture; and ii) barbers' chairs and similar chairs, having rotating as well as both reclining and elevating movements); or (8) furniture (other than seats) of materials other than wood, metal, or plastics (*e.g.,* furniture of cane, osier, bamboo or similar materials). The aforementioned imported unassembled articles are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4418.10, 4418.20, 9401.30, 9401.40, 9401.51, 9401.59, 9401.61, 9401.69, 9403.30, 9403.40, 9403.50, 9403.60, 9403.81 or 9403.89.

Also excluded from the scope of this changed circumstances review are steel nails that meet the specifications of Type I, Style 20 nails as identified in Tables 29 through 33 of ASTM Standard F1667 (2013 revision).

Also excluded from the scope of this changed circumstances review are nails suitable for use in powder-actuated hand tools, whether or not threaded, which are currently classified under HTSUS subheadings 7317.00.20.00 and 7317.00.30.00.

Also excluded from the scope of this changed circumstances review are nails having a case hardness greater than or equal to 50 on the Rockwell Hardness C scale (HRC), a carbon content greater than or equal to 0.5 percent, a round head, a secondary reduced-diameter raised head section, a centered shank, and a smooth symmetrical point, suitable for use in gas-actuated hand tools.

Also excluded from the scope of this changed circumstances review are corrugated nails. A corrugated nail is made up of a small strip of corrugated steel with sharp points on one side.

Also excluded from the scope of this changed circumstances review are thumb tacks, which are currently classified under HTSUS subheading 7317.00.10.00.

Certain steel nails subject to this changed circumstances review are currently classified under HTSUS subheadings 7317.00.55.02, 7317.00.55.03, 7317.00.55.05, 7317.00.55.07, 7317.00.55.08, 7317.00.55.11, 7317.00.55.18, 7317.00.55.19, 7317.00.55.20, 7317.00.55.30, 7317.00.55.40, 7317.00.55.50, 7317.00.55.60, 7317.00.55.70, 7317.00.55.80, 7317.00.55.90, 7317.00.65.30, 7317.00.65.60 and 7317.00.75.00. Certain steel nails subject to this changed circumstances review also may be classified under HTSUS subheading 8206.00.00.00 or other HTSUS subheadings.

While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this changed circumstances review is dispositive.

[3] The shaft length of certain steel nails with flat heads or parallel shoulders under the head shall be measured from under the head or shoulder to the tip of the point. The shaft length of all other certain steel nails shall be measured overall.

[FR Doc. 2015–29364 Filed 11–16–15; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–533–838, C–533–839, and A–570–892]**

### Carbazole Violet Pigment From India and the People's Republic of China: Continuation of the Antidumping Duty Orders and Countervailing Duty Order

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

**SUMMARY:** The Department of Commerce (the Department) and the International Trade Commission (the ITC) have determined that revocation of the antidumping duty (AD) orders on carbazole violet pigment (CVP–23) from the People's Republic of China (PRC) and India would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States. The Department and the ITC have also determined that revocation of the countervailing duty (CVD) order on CVP–23 from India would likely lead to continuation or recurrence of net countervailable subsidies and material injury to an industry in the United States. Therefore, the Department is publishing a notice of continuation for these AD and CVD orders.

**DATES:** *Effective Date:* November 17, 2015.

**FOR FURTHER INFORMATION CONTACT:** Kaitlin Wojnar (AD Orders), AD/CVD Operations, Office VII, or Jacqueline Arrowsmith (CVD Order), AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3857 or (202) 482–5255, respectively.

**SUPPLEMENTARY INFORMATION:**

## Background

On April 1, 2015, the Department initiated [1] and the ITC instituted [2] five-year (sunset reviews) of the AD and CVD orders on CVP–23 from India and the PRC,[3] pursuant to section 751(c) of

[1] *See Initiation of Five-Year (''Sunset'') Reviews,* 80 FR 17388 (April 1, 2015).

[2] *See Carbazole Violet Pigment 23 From China and India: Institution of Five-Year Reviews,* 80 FR 17493 (April 1, 2015).

[3] *See Antidumping Duty Order: Carbazole Violet Pigment 23 From the People's Republic of China,* 69 FR 77987, (December 29, 2004) and *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Carbazole Violet Pigment 23 From India,* 69 FR 77988, (December 29, 2004), *see also Notice of Countervailing Duty Order: Carbazole Violet*

Continued

the Tariff Act of 1930, as amended (the Act). As a result of its reviews, the Department determined that revocation of the AD orders from the PRC and India would likely lead to continuation or recurrence of dumping and that revocation of the CVD order from India would likely lead to continuation or recurrence of net countervailable subsidies. Therefore, the Department notified the ITC of the magnitude of the margins and the subsidy rates likely to prevail should the orders be revoked, pursuant to sections 751(c)(1) and 752(b) and (c) of the Act.[4]

On November 6, 2015, the ITC published its determination that revocation of the AD order on CVP–23 from India and the PRC would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time, pursuant to section 751(c) of the Act.[5]

**Scope of the Order**

The merchandise subject to this countervailing duty order is CVP–23 identified as Color Index No. 51319 and Chemical Abstract No. 6358–30–1, with the chemical name of diindolo [3,2-b:3′,2′-m] [6] triphenodioxazine, 8,18-dichloro-5, 15-diethy-5, 15-dihydro-, and molecular formula of $C_{34}H_{22}C_{12}N_4O_2$. The subject merchandise includes the crude pigment in any form (*e.g.,* dry powder, paste, wet cake) and finished pigment in the form of presscake and dry color. Pigment dispersions in any form (*e.g.,* pigments dispersed in oleoresins, flammable solvents, water) are not included within the scope of the investigation. The merchandise subject to this countervailing duty order is classifiable under subheading 3204.17.9040 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

*Pigment 23 From India,* 69 FR 77995, (December 29, 2004).

[4] *See Carbazole Violet Pigment 23 From India and the People's Republic of China: Final Results of Expedited Second Sunset Reviews of Antidumping Duty Orders,* 80 FR 46955, (August 6, 2015) and *Carbazole Violet Pigment 23 From India: Final Results of Expedited Second Sunset Review of the Countervailing Duty Order,* 80 FR 47462, (August 7, 2015).

[5] *See Carbazole Violet Pigment 23 From China and India; Determinations,* 80 FR 68878 (November 6, 2015).

[6] The bracketed section of the product description, [3,2-b:3′,2′-m], is not business proprietary information. In this case, the brackets are simply part of the chemical nomenclature. *See* December 4, 2003, amendment to petition at 8.

During this sunset review period, there was one scope ruling completed between October 1, 2011, and December 31, 2011.[7] The scope ruling was requested by Petitioners. On October 14, 2011, we determined that finished carbazole violet pigment exported from Japan, made from crude carbazole violet pigment from India, is within the scope of the *CVD Order.*

**Continuation of the Orders**

As a result of the determinations by the Department 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 and revocation of the CVD order would likely lead to continuation or recurrence of countervailable subsidies and material injury to an industry in the United States. Pursuant to section 75l(d)(2) of the Act and 19 CFR 351.218(a), the Department hereby orders the continuation of the AD orders on CVP–23 from India and the PRC, and the CVD order on CVP–23 from India. U.S. Customs and Border Protection will continue to collect AD and CVD 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 order and CVD order will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act and 19 CFR 351.218(c)(2), the Department intends to initiate the next five-year review of these orders not later than 30 days prior to the fifth anniversary of the effective date of this continuation notice.

These five-year sunset reviews and this notice are in accordance with section 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: November 9, 2015.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2015–29361 Filed 11–16–15; 8:45 am]

BILLING CODE 3510–DS–P

[7] *See Notice of Scope Rulings,* 77 FR 38767 (June 29, 2012).

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[Docket No. 150904820–5820–01]**

**RIN 0648–BF34**

### Endangered and Threatened Species; Determination on the Designation of Critical Habitat for Three Scalloped Hammerhead Shark Distinct Population Segments

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

**ACTION:** Notice of critical habitat determination.

**SUMMARY:** We, NMFS, find that there are no marine areas within the jurisdiction of the United States that meet the definition of critical habitat for the Central and Southwest (Central & SW) Atlantic Distinction Population Segment (DPS), Indo-West Pacific DPS, or Eastern Pacific DPS of scalloped hammerhead shark. Based on a comprehensive review of the best available scientific and commercial data for use in the identification of critical habitat, we find that there are no identifiable physical or biological features that are essential to the conservation of these scalloped hammerhead DPSs and found within areas under U.S. jurisdiction, or any areas outside of the geographical area occupied by the listed DPSs under U.S. jurisdiction that are considered essential to their conservation. As such, we find that there are no specific areas under the jurisdiction of the United States that meet the definition of critical habitat.

**DATES:** This finding is made on November 17, 2015.

**ADDRESSES:** Electronic copies of the determination, list of references and supporting documents prepared for this action are available from the NMFS Office of Protected Resources Web site at *http://www.fisheries.noaa.gov/pr/species/fish/scalloped-hammerhead-shark.html.*

**FOR FURTHER INFORMATION CONTACT:** Maggie Miller, NMFS, Office of Protected Resources, (301) 427–8403.

**SUPPLEMENTARY INFORMATION:**

**Background**

On July 3, 2014, we published a final rule to list the Central and Southwest (Central & SW) Atlantic Distinct Population Segment (DPS) and the Indo-West Pacific DPS of scalloped hammerhead shark (*Sphyrna lewini*) as threatened species under the

Endangered Species Act (ESA), and the Eastern Atlantic DPS and Eastern Pacific DPS of scalloped hammerhead sharks as endangered species under the ESA (79 FR 38213). Section 4(b)(6)(C) of the ESA requires the Secretary of Commerce (Secretary) to designate critical habitat concurrently with making a determination to list a species as threatened or endangered unless it is not determinable at that time, in which case the Secretary may extend the deadline for this designation by 1 year. At the time of listing, we concluded that critical habitat was not determinable at that time because: (1) Sufficient information was not currently available to assess impacts of designation; and (2) sufficient information was not currently available regarding the physical and biological features essential to conservation. We announced our intention to consider critical habitat for the Central & SW Atlantic, Indo-West Pacific, and Eastern Pacific DPSs in a separate rulemaking, and we requested relevant information from interested persons to help us: (1) Identify and describe the physical and biological features essential to the conservation of the scalloped hammerhead DPSs; and (2) assess the economic consequences of designating critical habitat for the DPSs. We solicited input from government agencies, the scientific community, industry and any other interested party on features and areas that may meet the definition of critical habitat for the DPSs that occur in U.S. waters or territories, but we did not receive any response to this solicitation. Subsequently we researched, reviewed, and compiled the best available scientific and commercial data available to be used in the identification of critical habitat for the Central & SW Atlantic, Indo-West Pacific, and Eastern Pacific DPSs. However, as discussed below, based on these data we find that there are no identifiable physical or biological features that are essential to the conservation of the scalloped hammerhead DPSs and found within areas under U.S. jurisdiction. As such, we find that there are no marine areas within U.S. jurisdiction that meet the definition of critical habitat.

This finding describes information on the biology, distribution, and habitat use of scalloped hammerhead sharks and the methods used to identify areas that may meet the definition of critical habitat. In this determination, we focus on those aspects directly relevant to the designation of critical habitat for scalloped hammerhead sharks. For more detailed information on the biology and habitat use of scalloped hammerhead sharks, refer to the status review report (Miller *et al.* 2014) and the proposed and final listing rules (78 FR 20717, April 5, 2013; 79 FR 38213, July 3, 2014).

**Scalloped Hammerhead Shark Biology and Status**

The following discussion of the life history and status of the scalloped hammerhead shark DPSs is based on the best scientific data available, including the *Scalloped Hammerhead Shark Status Review Report* (Miller *et al.* 2014).

All hammerhead sharks belong to the family Sphyrnidae and are classified as ground sharks (Order Carcharhiniformes). Most hammerheads, including the scalloped hammerhead shark, belong to the Genus *Sphyrna.* The hammerhead sharks are recognized by their laterally expanded head that resembles a hammer, hence the common name ''hammerhead.'' The scalloped hammerhead shark (*Sphyrna lewini*) is distinguished from other hammerheads by a marked central indentation on the anterior margin of the head, along with two more indentations on each side of this central indentation, giving the head a ''scalloped'' appearance.

Scalloped hammerhead sharks can be found in coastal warm temperate and tropical seas worldwide. They occur over continental and insular shelves, as well as adjacent deep waters, but are seldom found in waters cooler than 22° C (Compagno 1984; Schulze-Haugen and Kohler 2003). These sharks range from the intertidal and surface to depths of up to 450–512 m (Sanches 1991; Klimley 1993), with occasional dives to even deeper waters (Jorgensen *et al.,* 2009). They have also been documented entering enclosed bays and estuaries (Compagno 1984).

Both juveniles and adult scalloped hammerhead sharks occur as solitary individuals, pairs, or in schools. The schooling behavior has been documented during summer migrations off the coast of South Africa as well as in permanent resident populations, like those in the East China Sea (Compagno 1984). Adult aggregations are most common offshore over seamounts and near islands, whereas neonate and juvenile aggregations are more common in nearshore nursery habitats (Compagno 1984; Duncan and Holland 2006; CITES 2010; Hearn *et al.* 2010; Bejarano-Álvarez *et al.* 2011; Bessudo *et al.* 2011). It has been suggested that juveniles inhabit these nursery areas for up to or more than a year, as they provide valuable refuges from predation (Duncan and Holland 2006).

The scalloped hammerhead shark is a high trophic level predator (trophic level = 4.1; Cortés 1999) and opportunistic feeder with a diet that includes a wide variety of teleosts, cephalopods, crustaceans, and rays (Compagno 1984; Bush 2003; Júnior *et al.* 2009; Noriega *et al.* 2011). In terms of reproduction, the scalloped hammerhead shark is viviparous (*i.e.,* gives birth to live young), with a gestation period of 9–12 months (Branstetter 1987; Stevens and Lyle 1989), which may be followed by a one-year resting period (Liu and Chen 1999). Females attain maturity around 200–250 cm total length (TL) while males reach maturity at smaller sizes (range 128–200 cm TL). Parturition may be partially seasonal (Harry *et al.* 2011), with neonates present year round but with abundance peaking during the spring and summer months (Duncan and Holland 2006; Adams and Paperno 2007; Bejarano-Álvarez *et al.* 2011; Harry *et al.* 2011; Noriega *et al.* 2011). Females move inshore to birth, with litter sizes anywhere between 1 and 41 live pups. Observed maximum sizes for male scalloped hammerheads range from 196–321 cm TL, with the oldest male scalloped hammerhead estimated at 30.5 years (Piercy *et al.* 2007). Observed maximum sizes for female scalloped hammerheads range from 217–346 cm TL, with the oldest female scalloped hammerhead estimated at 31.5 years (Kotas *et al.* 2011).

Based on the genetic diversity among subpopulations, geographic isolation, and differences in international regulatory mechanisms, we identified six DPSs of scalloped hammerhead sharks that are both discrete and significant to the taxon as a whole. The six scalloped hammerhead shark DPSs, which comprise the global population, are: (1) Northwest Atlantic and Gulf of Mexico DPS, (2) Central & SW Atlantic DPS, (3) Eastern Atlantic DPS, (4) Indo-West Pacific DPS, (5) Central Pacific DPS, and (6) Eastern Pacific DPS. All scalloped hammerhead sharks are both targeted and taken as bycatch in many global fisheries, with their fins a primary product for international trade. However, the exploitation by commercial and artisanal fisheries and lack of adequate regulatory mechanisms, combined with the species' biological vulnerability to depletion, has led to declines of the Eastern Atlantic, Eastern Pacific, Central & SW Atlantic, and Indo-West Pacific DPSs to the point where the Eastern Atlantic and Eastern Pacific DPSs are presently in danger of extinction and the Central & SW

Atlantic and Indo-West Pacific are likely to become so in the foreseeable future.

## Critical Habitat Identification and Designation

Critical habitat is defined by section 3 of the ESA as: ''(i) the specific areas within the geographical area occupied by the species, at the time it is listed . . ., on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed . . . upon a determination by the Secretary that such areas are essential for the conservation of the species.'' This definition provides a step-wise approach to identifying areas that may qualify as critical habitat for the listed scalloped hammerhead shark DPSs: (1) Determine the geographical area occupied by the species at the time of listing; (2) identify physical or biological habitat features essential to the conservation of the species; (3) delineate specific areas within the geographical area occupied by the species on which are found the physical or biological features; (4) determine whether the features in a specific area may require special management considerations or protection; and (5) determine whether any unoccupied areas are essential for conservation. Our evaluation and conclusions as we worked through this step-wise process are described in detail in the following sections.

## Geographical Area Occupied by the Species

We have interpreted ''geographical area occupied'' in the definition of critical habitat as the range of the species at the time of listing (45 FR 13011; February 27, 1980). Further, our regulations at 50 CFR 424.12(h) state: ''Critical habitat shall not be designated within foreign countries or in other areas outside of United States jurisdiction.'' The distribution of the Eastern Atlantic DPS of scalloped hammerhead shark is found entirely in waters outside of U.S. jurisdiction. As such, we cannot designate critical habitat for the Eastern Atlantic DPS and will focus the following discussion on the other three listed scalloped hammerhead DPSs: Eastern Pacific DPS, Central & SW Atlantic DPS, and Indo-West Pacific DPS.

### *Eastern Pacific DPS*

The Eastern Pacific DPS generally occurs off the coasts of Mexico and within the Gulf of California, from 32°N latitude south to northern Peru, around 4°S latitude. We characterize this geographical area as the ''core range'' or occupied area of the DPS (where one would most likely observe scalloped hammerhead sharks). This core range is entirely outside of U.S. jurisdiction. However, individuals of the species have been documented north and south of these core range boundary lines, but rarely and usually only during specific weather events. These observations primarily occur during strong El Niño events, defined as a positive sea surface temperature (SST) departure from normal greater than or equal to +1.5°C for 5 consecutive 3-month running mean SSTs, and represent an opportunistic northward displacement of the species (Siegel 1987; Shane 2001). It is important to note that these strong El Niño events are only identified as such after they have already occurred (since they are based on 3-month running averages), and, as such, are difficult to forecast. There is no information that the areas off southern California and areas north, and off Peru and Chile, are now or were historically used as habitat for the species. Given the amount of fishing effort as well as the human population density in these regions, it is highly unlikely that substantial concentrations of scalloped hammerhead sharks would have passed unnoticed. As such, we consider these areas outside of the core range to be used solely by vagrants (individuals that occur outside of their normal range) and only during rare weather events that are difficult to forecast. Below we provide further information on the occupation and use of these areas to support this conclusion.

In southern California waters (which are under U.S. jurisdiction), the first verified observation of a scalloped hammerhead shark was in 1977 (Fusaro and Anderson 1980). Since then, observations have been sporadic and only associated with unusually warm water, as occurs during El Niño Southern Oscillation (ENSO) events. Based on the available information, we found confirmation of 26 scalloped hammerhead individuals in southern California waters since 1977 (Fusaro and Anderson 1980; Siegel 1985; Lea and Rosenblatt 2000; Shane 2001; Galante 2014). The majority of these observations occurred immediately before, during, and following the strong 1997–1998 ENSO event (Lea and Rosenblatt 2000; Shane 2001). Between 1997 and 1999, 19 young-of-the-year (YOY) (<100 cm TL) scalloped hammerhead sharks were caught in San Diego Bay (Shane 2001). Since 1999, only one scalloped hammerhead shark has been observed in southern California waters, caught on video by spear fishermen off Anacapa Island, Channel Islands in October of 2014 (Galante 2014). The observed scalloped hammerhead sharks consist of adult female and juvenile sharks, suggesting that during strong El Niño events, the species may use southern California waters as pupping and nursery grounds. The last strong (≥1.5°C SST) El Niño event to occur was in 1997–1998. Since then, there have been a number of weak (0.5 to 0.9°C SST anomaly) and moderate (1.0 to 1.4°C SST anomaly) El Niño events, but based on the observational data, these events do not appear to transform the southern California waters into occupiable habitat for the species.

Similarly, in the central-south eastern Pacific, off the coasts of Peru and Chile, scalloped hammerhead observations are rare and also seem to be correlated with El Niño events. A single reference to the occurrence of the species in waters of Peru points to the presence of the species off Puerto Pizzaro in 1998, which is located in northern Peru, very close to the border of Ecuador (Love *et al.* 2005). As mentioned previously, 1997–1998 registered as a strong El Niño event, bringing much warmer waters to the eastern Pacific, and especially off the coast of Peru. This could explain the observation of the species in 1998, as, since then, no other observations of the species in the waters off Peru have been reported. In a recent paper that examined shark landings in Peru from 1996–2010, the authors found no records of scalloped hammerhead sharks (Gonzalez-Pestana *et al.* 2014).

In Chile, the first record of the species is from 2006 and is based on the genetic identification of three dried shark fins that were stored in a commercial warehouse for export to the international market (Sebastian *et al.* 2008). It is unclear where these scalloped hammerhead sharks were caught, but the authors suggest that many of the pelagic sharks are caught by the artisanal and industrial swordfish fisheries operating in Chile's exclusive economic zone (EEZ), and by the nearshore artisanal fisheries operating in north-central Chile. The sharks are generally landed at Coquimbo (29°579 S, 71°209 W); however, the authors obtained the three scalloped hammerhead shark fins from a storage warehouse in the town of Paico, in central Chile. This remains the only record of the species from Chile. Although the origin of the scalloped hammerhead sharks is uncertain, there was a weak El Niño event that occurred

at the end of 2006 and could possibly explain the occurrence of these three sharks in Chilean waters at that time. However, given the extremely rare occurrence of the species in waters off Peru and Chile, even during El Niño events, these areas do not likely contain habitat for the species.

For the foregoing reasons, we find that the geographical area occupied by the Eastern Pacific DPS at the time of ESA listing is the previously-defined core range of the species, which extends over a broad area of the Eastern Pacific Ocean. Specifically, the geographical area occupied by the Eastern Pacific DPS includes all coastal and oceanic waters between 32°N and 4°S latitude, and follows the boundary lines of the DPS for longitude from 140° W to 150° W. We find that the geographical areas outside of this delineation where scalloped hammerhead sharks have been observed (*i.e.,* areas off California, Peru and Chile) are used solely by vagrant individuals and only during rare weather events and, as such, are not identified as geographical areas occupied by the Eastern Pacific DPS at the time of listing. Given these findings, we conclude that there are no geographical areas occupied by the Eastern Pacific DPS that are within the jurisdiction of the United States at the time of listing.

*Central & Southwest Atlantic DPS*

The geographic range of the Central & SW Atlantic DPS includes all coastal and oceanic waters from 28° N. latitude to 36° S. latitude, following the boundary lines designated for this DPS. Although this range covers the territorial waters of Puerto Rico and the U.S. Virgin Islands (USVI), as well as the Navassa Island National Wildlife Refuge, there is little to no available information on the occurrence or distribution of the scalloped hammerhead shark within these waters at the time of listing.

Smooth, scalloped, and great hammerhead sharks are noted as historically occurring in USVI and Puerto Rican waters. In terms of habitat use around the USVI, personal communication (from E. Kadison, Ecology Laboratory Specialist, University of the Virgin Islands) suggests that Magens Bay, St. Thomas, may be a breeding ground for hammerheads, based on anecdotal reports of large aggregations found in the bay; however, the species of the hammerheads within Magens Bay was unknown (E. Kadison, personal communication, 2015). We could find no other information on the use of Magens Bay by hammerhead sharks that could help clarify or support the anecdotal reports. Similarly, Salt River Canyon off St. Croix's north shore was also noted as a diving spot for seeing the ''occasional'' large hammerhead, but species was not identified (N2Theblue 2014). The scalloped hammerhead shark is included in St. Croix's checklist of marine and inland fishes based only on records of two individuals that were caught as bycatch in 1991 during fishing operations for bigeye scad (Tobias 1991; Smith-Vaniz and Jelks 2014). We also received a photo of a hammerhead shark from a researcher conducting a longline shark survey in the area, but upon inspection identified the shark as a great hammerhead (E. Kadison, pers. comm. 2015). In fact, the great hammerhead shark is noted as a ''common Caribbean species'' in these waters, often found inshore and around coral reefs (Smith-Vaniz and Jelks 2014), and thus may likely be the species observed in the above anecdotal reports.

In waters off Puerto Rico, we found no information on the present distribution or habitat use of scalloped hammerhead sharks. The only information indicating the species' historical occurrence in Puerto Rican waters is its inclusion in a 1974 technical report that provides the common names of fishes in Puerto Rico (Erdman 1974; revised in 1983). Similarly, the presence and distribution of scalloped hammerhead sharks in the Navassa Island National Wildlife Refuge are unknown. In 1998, seven scalloped hammerhead sharks were caught in the refuge during an exploratory longline fish research survey conducted by NMFS scientists (Grace *et al.* 2000), indicating its past occurrence in these waters. A number of more recent NOAA surveys have been conducted in the Navassa Island National Wildlife Refuge; however, these surveys have focused on the nearshore reef habitat and fish assemblages and do not report any observations of scalloped hammerhead sharks (Miller 2003; Piniak *et al.* 2006). As such, we have no information on the present occurrence of the species in the Navassa Island National Wildlife Refuge.

Based on the foregoing information, we cannot establish if the geographical area occupied by the listed Central & SW Atlantic DPS includes any areas under the jurisdiction of the United States. Although scalloped hammerhead sharks have been included in historical checklists or observed in fish surveys conducted over 15 years ago, we have no information to indicate that the species was present in the territorial waters of Puerto Rico, USVI, or the Navassa Island National Wildlife Refuge at the time of listing. Because all three species of hammerhead sharks are noted as occurring in these waters, with the great hammerhead shark described as ''common,'' we cannot assume that the anecdotal reports of hammerhead sharks specifically refer to scalloped hammerhead sharks. As such, we consider the waters under U.S. jurisdiction within the Central & SW Atlantic DPS range to be unoccupied areas at the time of listing.

*Indo-West Pacific DPS*

The geographic range of the Indo-West Pacific DPS includes all coastal and oceanic waters from 40° N. latitude to 36° S. latitude, and follows the boundary lines designated for this DPS.

Although this range covers the territorial waters of Guam, Commonwealth of the Northern Mariana Islands (CNMI), American Samoa, and the Pacific Remote Island Areas (PRIAs), there is very little information on the occurrence, distribution, or use of habitat by the scalloped hammerhead shark within these waters at the time of listing. Most of the available information is based on personal observations and anecdotal reports of the species. In Guam, anecdotal reports suggest that Apra Harbor may have been used as a pupping ground for scalloped hammerhead sharks, based on the observed presence of young scalloped hammerhead sharks in Sasa Bay over a decade ago (D. Burdick, Research Associate, University of Guam, personal communication 2015). Over the time period of 1982–2004, a NMFS scientist working in Guam indicated that he personally observed and caught juvenile and adult scalloped hammerhead sharks in Apra Harbor (specifically the channel that connects the inner harbor and Sasa Bay) and observed juveniles near northern Piti, the Pago Bay river mouth, and the Ylig River mouth, and adults outside of Pago Bay and Tarague Beach (G. Davis, Assistant Regional Administrator for Habitat Conservation, NMFS, personal communication 2015). More recent observations, from Dr. Terry Donaldson (Professor, University of Guam), suggest that adults may periodically use Apra Harbor. He noted that he has personally observed them, albeit only very rarely over the past few years, in Apra Harbor and the inner harbor. The sharks occurred as solitary individuals (not schools), and he detailed one observation of a large adult feeding on a fish in the inner harbor. He also noted that neither he nor his technicians have observed any juveniles in Apra Harbor over the last few years.

In terms of occurrence around the PRIAs, we received personal communication from NMFS research

scientists that they have observed and recorded scalloped hammerhead sharks around the islands as recently as 2012 (I. Williams, Research Fish Biologist, NMFS; K. Lino, Marine Ecosystems Research Coordinator, NMFS; personal communication 2014). Since 2000, NMFS scientists have conducted tow diver surveys every 3 years at the PRIAs, during which they are at each island for 3–5 days surveying the reef. The survey method consists of two divers pulled behind a vessel surveying for large fish (>50 cm TL) and also looking at the benthic habitat of the islands' fore reefs from 30–60 feet (9.1 m–18.3 m) depths. According to their observations and records, schools of adult scalloped hammerhead sharks are most commonly observed at Jarvis and Baker Islands, although adult individuals tend to be observed daily at many of the islands during the survey period. No juveniles have been recorded during these surveys.

In addition, these NMFS scientists, who survey at more than 50 U.S.-affiliated islands, atolls, and reefs, have never recorded scalloped hammerheads in American Samoa, Guam, or CNMI while conducting these reef surveys. Corroborating these observations, fishery observer data from 2006–2010 indicate that scalloped hammerhead sharks are also rarely observed caught in the American Samoa longline fishery, which primarily operates within the U.S. EEZ around American Samoa (Simmonds 2014). We could find no information on the present occurrence or distribution of scalloped hammerhead sharks around CNMI.

The above information gives us confirmation of the past and perhaps present occurrence of the species in U.S. waters within the range of the Indo-West Pacific DPS. Specifically, at the time of listing, the geographical areas occupied by the Indo-Pacific DPS likely include waters off Guam and the PRIAs. Although observations of scalloped hammerhead sharks in American Samoa waters are rare, they still occur and, thus, we cannot rule out that habitats in these waters were being used, at least periodically, at the time of listing. However, given the severe lack of information about or observations of scalloped hammerhead sharks within waters of CNMI, we cannot conclude that this area was occupied by the species at the time of listing.

**Conclusion**

Based on the information above, we consider the geographical area occupied by Indo-West Pacific DPS of the scalloped hammerhead shark at the time of listing to include the waters under U.S. jurisdiction off Guam, the PRIAs, and American Samoa, and we consider the geographical areas occupied by the Eastern Pacific and Central & SW Atlantic DPSs at the time of listing to not include any waters under U.S. jurisdiction.

**Physical or Biological Features Essential for Conservation**

Within the geographical area occupied by an endangered or threatened species at the time of listing, critical habitat consists of specific areas on which are found those physical or biological features essential to the conservation of the species (hereafter also referred to as ''essential features'') and that may require special management considerations or protection. Section 3 of the ESA (16 U.S.C. 1532(3)) defines the terms ''conserve,'' ''conserving,'' and ''conservation'' to mean: ''to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this chapter are no longer necessary.'' Further, our regulations at 50 CFR 424.12(b) for designating critical habitat state that physical and biological features that are essential to the conservation of a given species and that may require special management considerations or protection may include: (1) Space for individual and population growth, and for normal behavior; (2) food, water, air, light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for breeding, reproduction, rearing of offspring, germination, or seed dispersal; and generally, (5) habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species.

For scalloped hammerhead shark DPSs, we define conservation as the use of all methods and procedures necessary to bring scalloped hammerhead sharks to the point at which factors related to population ecology and vital rates indicate that the population is recovered in accordance with the definition of recovery in 50 CFR 402.02. Important factors related to population ecology and vital rates include population size and trends, range, distribution, age structure, gender ratios, age-specific survival, age-specific reproduction, and lifetime reproductive success. Based on the available knowledge of scalloped hammerhead shark population ecology and life history, we have identified four biological behaviors that are critical to the goal of increasing survival and population growth: (1) Feeding, (2) pupping, (3) migration, and (4) breeding. In the following section, we evaluate whether there are physical and biological features of the habitat areas known or thought to be used for these behaviors that are essential to the species' conservation because they facilitate or are intimately tied to these behaviors and, hence, support the life-history needs of the species. Because these behaviors are essential to the species' conservation, facilitating or protecting each one is considered a key conservation objective for any critical habitat designation for this species.

*The Physical and Biological Features of Foraging Habitat That Are Essential to the Conservation of the Species*

Scalloped hammerhead sharks are opportunistic predators, with a high degree of trophic plasticity (Torres-Rojas *et al.* 2006; Rojas *et al.* 2014). They feed on a wide range of teleosts, crustaceans, and cephalopods (Klimley 1987; Torres-Rojas *et al.* 2006; Junior *et al.* 2009; Hussey *et al.* 2011). As juveniles, when they occur primarily in inshore and shallow coastal waters, their diet is a reflection of their habitat and consists of small reef fish and crustaceans. For example, in Kāne'ohe Bay, a coastal bay of Hawaii consisting of a shallow reef, YOY scalloped hammered sharks (47–84 cm TL) were observed feeding mainly on scarids and gobioids abundant around the reef (Clarke 1971). The species of gobioids were characterized as ''rather ubiquitous and found in a variety of habitats in the bay'' (Clarke 1971). For those YOY that were captured in a part of the bay characterized by dead and silted reefs and an absence of reef fish, stomach analysis showed that these sharks primarily foraged on crustaceans (principally alpheids), suggesting the species, even at a young age, is not limited in its foraging habits but rather adapts to its present habitat and feeds on whatever prey is available (Clarke 1971). Similarly, in an analysis of stomach contents from 556 juvenile *S. lewini,* ranging from 48–160 cm TL, Torres-Rojas *et al.* (2006) identified 87 prey species and concluded that *S. lewini* is a generalist, un-selective feeder, with the type and amount of prey consumed by the juvenile sharks primarily determined by abundance and availability.

The species is also thought to undergo an ontogenetic change in feeding habits. This change is estimated to occur when the species reaches sizes of around 100 cm TL (Klimley 1987; Torres-Rojas *et al.* 2006; Kotas *et al.* 2012; Rojas *et al.* 2014). Generally, as the sharks become

larger, they begin to venture into neighboring deep-water habitats to feed on the larger pelagic fishes and squid. In their analysis, Torres-Rojas *et al.* (2006) noted that scalloped hammerhead sharks <100 cm TL in the southern Gulf of California, Mexico, fed primarily on *Loliolopsis diomedaea* (46.7 percent Index of Relative Importance (IRI) in diet), a squid found in shallow waters, whereas sharks >100 cm TL had a diet consisting more of carangid fishes (30.6 percent IRI) and *Abraliopsis affinis* (33.9 percent IRI), a squid more commonly found in mid-depths and over continental shelves. Female scalloped hammerhead sharks are thought to undergo this ontogenetic shift in feeding habits at a smaller size than males, transitioning from juvenile foraging grounds in shallow, nearshore waters to foraging in pelagic, deeper water habitat. As Klimley (1987) observed in the Gulf of California, Mexico, females ≤160 cm TL had a higher percentage of pelagic prey and much lower percentage of benthic prey in their diet compared to males of similar sizes, consistent with this type of foraging behavior. Off the coast of South Africa, Hussey (2011) observed that the diet signatures for female sharks of 161–214 cm TL indicated prolonged residence in offshore-pelagic waters (as opposed to continental shelf habitats). The diet signatures of males and females became similar only after male size increased to >214 cm TL. These findings also seem to corroborate those from a detailed tracking study of a juvenile female that was initially tagged in a nearshore nursery ground (La Paz Bay, Mexico) (Hoyos-Padilla *et al.* 2014). The female was 95 cm TL when tagged and spent the next 8 months primarily in shallow waters (<50 m depths), close to shore and near the surface (Hoyos-Padilla *et al.* 2014). However, towards the end of the 10-month study period, the shark was tracked making an increasing number of deeper dives, between 150 to 250 m depths, indicating a transition to offshore waters (Hoyos-Padilla *et al.* 2014). At the point of recapture, 10 months later, the shark had attained a size of 123 cm TL, which appears to fall within the estimated sizes above which juvenile females begin their ontogenetic migration (Klimley 1987; Torres-Rojas *et al.* 2006; Kotas *et al.* 2012; Rojas *et al.* 2014). Klimley (1987) suggests that this offshore migration occurs sooner for females, enabling them to achieve faster growth to reproductively-active sizes through access to a greater abundance of prey. This, in turn, translates to females achieving maturity at similar ages as their male counterparts (Klimely 1987).

Although little is known regarding the foraging behavior of adults, based on tracking and diet studies, it is thought that adults (and sub-adult females that have already migrated offshore) tend to exhibit a diel feeding pattern (Ketchum *et al.* 2014a, 2014b). During the day, sharks are observed refuging in large aggregations in shallow, nearshore coastal areas, off islands, and over seamount ridges (Klimley 1985; Ketchum *et al.* 2014a, 2014b). They tend to stay in a small core area, making occasional vertical dives through the mixed layer, and generally remaining above the thermocline in waters >23 °C (Bessudo *et al.* 2011; Ketchum *et al.* 2014a). These ''refuge'' areas tend to be located on the up-current side of islands and also correspond to where the pelagic assemblage is richer and represents lower-level trophic groups (such as trevally, pompano, and jacks) (Hearn *et al.* 2010; Bessudo *et al.* 2011; Ketchum *et al.* 2014a; 2014b; K. Lino, pers. comm. 2014). One theory is that this specific location on the island/seamounts, where the current splits to flow around obstacles, may cause an area of entrainment, providing the hammerheads with a food source upstream of the island (Hearn *et al.* 2010). Another theory is that the interactions between abrupt, sloping topography of seamounts and other bathymetrical features, and the impact of currents, tides, and internal waves, may enhance fluxes of near-bottom food particles, increasing abundance of benthic suspension feeders and further supporting higher densities of resident fish above seamounts (Mohn and Beckmann 2002; Hearn *et al.* 2010). However, feeding has not been observed at these refuge spots. Instead, it is thought that scalloped hammerheads may aggregate at these locations to reduce energy costs (these refuge spots are still areas of reduced currents relative to offshore) at areas that may provide some degree of food availability (with food-rich thermocline waters preferentially delivered to the up-current side of the island) and other benefits (such as cleaning stations), but that work more as a central and vantage location for foraging excursions into open waters (Ketchum *et al.* 2014a, 2014b). Based on tracking data, it is thought that individuals leave the adult aggregations at night to forage as solitary individuals in the neighboring deep-water pelagic habitats (Klimley and Nelson 1984, Klimley 1987, Klimley *et al.* 1988). Diet analysis shows that cephalopods, in particular, constitute an important prey item for adult scalloped hammerhead sharks. Deep-water squid species recorded in the stomachs of scalloped hammerhead sharks include: *Ancistrocheirus lesueuri* (Orbigny), *Mastigoteuthis* sp., *Moroteuthis robustus* (Verrill), *Dosidicus gigas* (Orbigny) (Klimley, 1987), *Histioteuthis* sp., *Ommastrephes bartramii* and Cranchiidae (Junior *et al.* 2009). Many of these cephalopod species have a wide geographic distribution, moving throughout the deep waters of the ocean, and, as such, it would be difficult to link these prey species to any ''specific'' areas within the oceanic geographic areas occupied by the scalloped hammerhead DPSs.

Overall, the best available information indicates that scalloped hammerhead sharks are opportunistic feeders. The species, regardless of life stage, does not appear to be limited by foraging grounds, adapting to its present habitat by feeding on whatever prey are available. There does not appear to be a specific prey species that is required to be present in a habitat for successful foraging to occur. Nor are there any specific habitat characteristics that appear to be intimately tied with feeding behavior. As such, we are unable to identify any particular physical or biological features of areas that facilitate successful foraging. While the above information suggests that scalloped hammerhead sharks may aggregate in tropical waters, near seamount ridges or productive coastal areas that face the impinging current, these areas are thought to be used more for refuging purposes as opposed to foraging habitats. Although these refuging habitats may be linked to foraging activities, this is purely speculative. Additionally, the particular physical or biological features of these refuging habitats that make them preferential for scalloped hammerhead aggregations are uncertain and their importance to the life-history needs of scalloped hammerhead sharks is unknown. Furthermore, no scalloped hammerhead sharks of the Central & SW Atlantic DPS or Eastern Pacific DPS have been observed refuging or foraging in the geographic areas under U.S. jurisdiction. The same holds true for the Indo-West Pacific DPS, with the exception of a single, personal observation of an adult scalloped hammerhead shark feeding on a large mullet in the Inner Harbor of Guam (T. Donaldson, pers. comm. 2014). For the foregoing reasons, it is not possible to identify any physical or biological features related to foraging that are essential to the conservation of the

species, nor are there any ''specific areas'' that appear to be used for foraging purposes within waters under U.S. jurisdiction.

*The Physical and Biological Features of Pupping Habitat That are Essential to the Conservation of the Species*

Scalloped hammerhead sharks are known to give birth in warm tropical and temperate shallow, inshore waters. The specific nursery habitat requisites for such factors as temperature, depth, and substrate, are highly variable. Below is a summary of the information on the habitat characteristics of known scalloped hammerhead nursery areas, identified as such based on the: (1) Common presence of neonates, YOY, and juvenile scalloped hammerhead sharks in the area, (2) long residency period of immature individuals in these areas (*e.g.,* weeks, months, years), and (3) repeated usage of the area over the years by these age classes (Salmon-Aguilar *et al.* 2009).

Nursery habitats for scalloped hammerhead sharks are generally identified as shallow inshore areas, including bays and estuaries. Kāne′ohe Bay in Hawaii, for example, is a well-studied and confirmed nursery ground for scalloped hammerhead sharks (and is part of the range of the identified Central Pacific DPS, for which we determined listing was ''not warranted''; 78 FR 20717, April 5, 2013). Kāne′ohe Bay is the largest bay in the Hawaiian Islands (61 km$^2$), located on the windward side of Oahu, and is separated from the ocean by a large barrier reef (0–3 m deep) (Clarke 1971). There are also two channels that provide access to the ocean on either side of the bay, the North Channel (10 m deep) and the shallower Sampan Channel (3 m deep). Most of the bay is around 14 m deep, with the deepest spots at around 19 m. It has a muddy/silty bottom with temperatures ranging from 20–30 °C. Patch reefs and small islands are interspersed throughout the bay. As mentioned above, the scalloped hammerhead population within this bay has been studied for many years (Clarke 1971; Holland *et al.* 1993; Duncan and Holland 2006). The juveniles show a preference for the southern end of the bay, which is characterized as being more turbid and estuarine than the other parts of the bay. In fact, females tend to drop the pups in the bay at the start of the trade-wind season, which stirs up the bay and creates constantly turbid waters, allowing the juveniles to remain in the bay for a significant portion of the year (Clarke 1971). The preference for the turbid portions of the bay is thought to be a defense mechanism, protecting juveniles from predator visibility. Behavioral observations in this nursery habitat show that juveniles tend to refuge in aggregations during the day near the bottom (between 0.5 m and 1.5 m off the bay floor) and in deeper areas of the bay (Holland *et al.* 1993). At night, juveniles tend to disperse, possibly hunting where patch and fringing reef walls meet the bay floor (Holland *et al.* 1993).

Identified nursery habitats in other regions also appear to share many of the same characteristics as those physical and biological features of Kāne′ohe Bay. For example, off the east coast of Australia, along the tropical northern Queensland coastline, there are a number of primarily shallow (<15 m) bays within which YOY scalloped hammerhead sharks of the Indo-West Pacific DPS have been observed (Simpfendorfer *et al.* 2014). These bays are protected seaward by the Great Barrier Reef and are also characterized by substrate that is dominated by silt and mudflats or mangrove-lined foreshores. The bays themselves tend to vary in other factors, such as freshwater input and seagrass abundance (Simpfendorfer *et al.* 2014). Young-of-the-year scalloped hammerheads have been observed in many of these bays (including Moreton, Rockhingham, Halifax, Cleveland, Bowling Green, Upstart, Repulse), but their spatial distribution indicates a preference for some (*e.g.,* Rockingham, Cleveland, Repulse) more than others (Simpfendorfer and Millward 1993; Taylor 2008; Simpfendorfer *et al.* 2014; Australia Department of Environment 2014). The specific aspects of these bays that make them more preferential as nursery habitats over the others is not clear; although, based on information from Simpfendorfer *et al.* (2014), these bays receive a greater input of freshwater compared to some of the bays where scalloped hammerheads have not been observed. In Cleveland Bay, for example, freshwater flows from four creeks into the mangrove-dominated southern portion of the bay, causing significant drops in salinity in the summer (from 39% to 36%) (Kinney *et al.* 2011). This is also the part of the bay where large numbers of YOY scalloped hammerheads have been recorded throughout the year in depths <5 m (Simpfendorfer and Milward 1993). Other physical aspects of the bay include silty substrates with mangrove-lined shorelines, areas of coastal reefs, and warm temperatures (SST ranges from 22.5 °C in winter to 30.5 °C in the summer) (Kinney *et al.* 2011). In the intertidal surf zone of Cleveland Bay, which is characterized by mud and sand flats, neonates of *S. lewini* have also been caught, but this is a brief occurrence (Tobin *et al.* 2014). They appear to only be present during the summer, from October to January, in depths typically <0.5 m, and thus are assumed to utilize this area as either transient short-term protection from predators after birth or possibly for prey resources (shrimp, small fishes), after which the neonates disperse into the adjoining subtidal nursery area of Cleveland Bay (Tobin *et al.* 2014). This migration may explain why more *S. lewini* YOY were observed in the southern portion of the Bay from February to July (Simpfendorfer and Milward 1993).

Apra Harbor, Guam, may also contain nursery habitat for the Indo-West Pacific DPS of scalloped hammerhead sharks, but this supposition is based only on anecdotal observations of juvenile sharks in Sasa Bay and both adults and juveniles in the channel connecting the inner Apra Harbor and Sasa Bay (personal communication, G. Davis and D. Burdick 2015). Sasa Bay, which is a no-take marine reserve, is a shallow bay (0–11 m) that primarily consists of sand/mud substrate, with patch reefs in deeper water and a mangrove swamp that extends along the coastline. The inner Apra Harbor has been extensively modified through dredging, construction activities, and landfills undertaken by the U.S. Navy since 1945 (Smith *et al.* 2009). The inner Apra Harbor now consists of a mud bottom of uniform depth, high turbidity, and an abundance of planktonic and benthic suspension feeders (compared to other parts of the harbor) but also has a relatively untouched mangrove area at the mouth of the Atantano River. Depths in the inner Apra Harbor range from 0–11 m, with some deeper areas of 11–18 m (Smith *et al.* 2009). On the opposite side of the island, the Pago Bay river mouth has also been identified as an area where juvenile scalloped hammerhead sharks have been observed. This area consists of a fringing reef flat, shallow depths (<10 m) and temperatures that range from around 16 to 34 °C (Tsuda 2004). Further information about the habitat use of scalloped hammerhead sharks that could provide insight into the specific physical or biological features within these systems that support the life-needs of the species is unknown, with the only available information from general personal observations and interactions with the species.

Off South Africa, nursery habitats for the Indo-West Pacific DPS have been identified on the continental shelf off

the geopolitical provinces that encompass KwaZulu-Natal (KZN) and northern Eastern Cape. This area is characterized by a narrow continental shelf and steep continental slope bordered at its eastern edge by the warm south-westward flowing Agulhas Current (Hussey *et al.* 2009). In Tugela Bank, KZN, YOY scalloped hammerheads were caught on trawling grounds in <50 m depths, where temperatures range from 21–27 °C. This area also coincides with the deepest deposit of mud originating from the discharges of numerous rivers in the area, and, as a result, the water is permanently turbid (Fennessy 1994). Young-of-the-year scalloped hammerheads were also caught year-round in the Transkei area where temperatures range from 16.5–22 °C (the coastal area just south of KZN), particularly the Port St Johns region which is the location of the mouth of the Mzimvbu River (Diemer *et al.* 2011). These temperatures and depths appear to be a bit cooler and deeper, respectively, than those described previously for nursery habitats in this DPS' range.

In the range of the Eastern Pacific DPS, Zanella *et al.* (2009) noted significant catches of juvenile scalloped hammerhead sharks in the vicinity of the mouth of the Tarcoles River, Costa Rica. Within this area, YOY sharks primarily occurred in depths between 1 and 30 m, whereas larger juveniles occurred in deeper areas of 61–90 m. Most sharks were caught in the portion of the river mouth characterized by muddy substrate, and shallow and murky waters. This area, in particular, is characterized by higher sedimentation and nutrient flow due to the influence of a mangrove ecosystem surrounding the coast and river discharge from the Tarcoles River (Zanella *et al.* 2009).

Other sites in the Eastern Pacific DPS range that have been identified as nursery areas are located in the Gulf of California and further south off the Pacific coast of Mexico. Sites in the Gulf of California include coastal waters off Mazatlan (Sinaloa) and San Francisquito and El Barril (Baja California). In the eastern Gulf of California, features of the areas where large numbers of YOY and juvenile *S. lewini* have been observed include both shallow and wide continental shelves (5–25 km), warm water temperatures, and highly productive waters. In 2014, Hoyos-Padilla *et al.* tracked an older juvenile female scalloped hammerhead shark in the Gulf of California (tagged in La Paz Bay) and found that the shark generally remained in depths less than 50 m, with a preference for temperatures of 23–26 °C. The onset of the birthing and nursery period in this area appears to be governed by temperature, when the temperatures increase from 18–19 °C in the spring to 30–31 °C in the summer. Significant upwelling events occur in the central and southern Gulf of California in winter and spring, generating high productivity and greater food availability during the peak breeding months and likely contribute to this area's importance as a nursery habitat for scalloped hammerhead sharks (Torres *et al.* 2008).

The Gulf of Tehuantepec, off the southern coast of Mexico, is also thought to be an important spawning and nursery area for *S. lewini* based on the presence of YOY, juveniles, and pregnant females in these waters. It is characterized by a narrow continental shelf with rivers and temporal streams that form large coastal lagoons and estuaries, and well-developed mangrove forest communities that provide abundant food resources (Alego-plata *et al.* 2007; Rios-Jara *et al.* 2009).The region has a tropical warm sub-humid climate with an average annual temperature close to 26 °C (range 14–31 °C at 10 m depths; Tapia-Garcia *et al.* 2007). It also experiences numerous summer rains (annual rainfall = 2500–3000 mm), making this region one of the wettest of Mexico (Rios-Jara *et al.* 2009). It is during the wet season that observations of YOY and juveniles increase, with birthing thought to occur in July and August. From October to May, this region experiences the strong ''Tehauntepec winds'' that cause the collapse of the thermocline and create upwelling of nutrients (Tapia-Garcia *et al.* 2007), likely providing a source of greater food availability during the first years of growth for these juvenile sharks.

From the best available information, the physical features of nursery areas in the Atlantic appear to be generally similar to those found in the Pacific. In the range of the Central & SW Atlantic DPS, Kotas *et al.* (2012) noted that in waters off Brazil pups tend to occur in shallow, coastal, turbid areas, in depths <20 m with sandy substrate. Juveniles are found near bays, estuaries, and over continental shelf in depths up to around 275 m (Kotas *et al.* 2012). No other information on nursery habitat characteristics for this DPS, especially those physical and biological features that directly support the life-history needs of the species, could be found. In fact, with the exception of the anecdotal information from Guam waters, there are no identified nursery grounds within waters under U.S. jurisdiction for either the Central & SW Atlantic DPS or the Indo-West Pacific DPS. The same is true for the Eastern Pacific DPS. Although YOY scalloped hammerhead sharks have been observed in U.S. waters off southern California, these individuals are identified as vagrants, with their occurrence associated only with rare strong ENSO events (Lea and Rosenblatt 2000; Shane 2001). In other words, the presence of YOY scalloped hammerhead sharks in California waters is not common, nor have scalloped hammerhead sharks displayed a repeated usage of these areas over the years. As such, we do not consider U.S. waters off southern California to contain identified nursery habitat for the Eastern Pacific DPS.

Based on the foregoing information regarding known or presumed pupping areas for scalloped hammerhead sharks, the general physical oceanographic features that appear to be associated with this habitat include: (1) Relatively shallow inshore bays/estuaries with areas of moderate to high freshwater input; (2) tropical water temperatures (≥20 °C); (3) muddy/silty/sandy substrate bottom; (4) presence of patchy reefs, mangrove systems, or seagrass beds; and (5) areas within inshore habitats of higher turbidity/current flow. However, because of the variability in the presence of the above physical features in the different identified nursery areas (*e.g.,* mud versus silt or sand, low temperatures (16–22 °C) versus higher temperatures (>30 °C), varying levels of salinity and freshwater input, shallow depths (<10 m) versus areas with deeper waters (up to 275m)) we can only characterize nursery grounds using broad terms to describe the physical features. Given this level of resolution, and the fact that these features vary even for nursery grounds within a DPS' range, it is unclear which of the above physical characteristics, if any, are necessary to facilitate successful pupping behavior. In other words, we cannot identify whether any or a combination of these characteristics of nursery grounds are essential for the conservation of the species. Although scalloped hammerhead sharks may prefer areas that contain these characteristics, the available information does not allow us to identify any physical or biological features within these areas that are essential to support the life-history needs of scalloped hammerhead sharks. Additionally, while the available data suggest nursery habitats share many of the above physical characteristics, these general features are relatively ubiquitous throughout the global range of the species and not all areas with the

above features provide meaningful pupping or nursery habitat. Furthermore, there is no evidence of scalloped hammerhead sharks being limited to a specific nursery ground. In fact, Duncan *et al.*(2006) provided mtDNA data that argued against strong natal homing behavior by the species and anecdotal information of scalloped hammerhead sharks using artificially enlarged estuaries in Hawaii as nursery grounds (which were 100–600 km from confirmed nursery habitats). In other words, the species is highly migratory and does not appear to be limited to certain nursery areas.

As mentioned previously, for the listed DPSs, there are no confirmed nursery grounds for the species in U.S. waters. Due to the rarity of the presence of the Central & SW Atlantic DPS in waters under U.S. jurisdiction, both historically and presently, these waters do not likely provide important pupping habitat. Similarly, the waters under U.S. jurisdiction in the Eastern Pacific are considered unoccupied areas used solely by vagrants of the Eastern Pacific DPS and only during rare weather events. As such, these waters do not provide important nursery habitat for the DPS. The anecdotal observations from Guam lend support to the potential use of waters under U.S. jurisdiction by juvenile scalloped hammerhead sharks; however, without knowledge of the essential features that create meaningful pupping grounds, we cannot identify any areas that meet the definition of critical habitat. Simply the observation of the presence of juveniles utilizing these waters (with unknown abundance, duration, habitat use, or frequency of occurrence) is not enough information to indicate that these areas contain physical and biological features that are essential to the conservation of the species. Additionally, the waters under U.S. jurisdiction for the Indo-West Pacific DPS represent an extremely small percentage of the suitable habitat available for the DPS (which comprises the waters of the entire Indian Ocean and Western Pacific Ocean), and based on the absence of any recent observations of juvenile scalloped hammerhead sharks utilizing waters off Guam, these waters under U.S. jurisdiction do not appear to contain important nursery habitat that could be characterized as essential for the conservation of the DPS.

*The Physical and Biological Features of Migratory Habitat That Are Essential to the Conservation of the Species*

Both small and large-scale migratory movements are a necessary component in the life-history of the scalloped hammerhead shark. Examples of small scale migratory movements (<300 km) include those undertaken for feeding and refuging (Ketchum *et al.* 2014b; Diemer *et al.* 2011; Hearn *et al.* 2010; Klimley and Nelson 1984). Large scale migrations have also been observed by scalloped hammerhead sharks and are thought to occur for foraging but also reproductive purposes (Ketchum *et al.* 2014b; Bessudo *et al.* 2011). Pregnant females must make large scale migrations from their offshore habitats to coastal inshore nursery habitats for successful reproduction. Similarly, juvenile females are also thought to make this migration in the opposite direction as they attain larger sizes (>100 cm TL). The extent of juvenile and adult male migrations is unknown, but as some have been observed in schools offshore (Klimley 1985; Ketchum *et al.* 2014) and some in nearshore nursery areas (Clarke 1971; Dudley and Simpfendorfer 2006), it is likely that a proportion of the male population may also undergo larger scale migrations. For logistical reasons, survey efforts have been focused in nearshore habitats, with a number of studies conducted around the island chains in the Eastern Tropical Pacific (Galapagos, Cocos Island, and Malpelo Island), part of the Eastern Pacific DPS range. For example, in the Galapagos, Ketchum *et al.* (2014b) tagged 134 scalloped hammerhead sharks, 80 percent of which were females. The most common movement exhibited by these sharks was short back and forth inter-island movement (<50 km), which was thought to represent focused foraging movements. However, five tagged scalloped hammerhead sharks were also tracked making long-distance migrations (>300 km) across the eastern Pacific, primarily during the warm season (March to May). One female (possibly mature with a size of 170 cm TL) was tracked moving from Wolf Island (Galapagos) to Cocos Island off Costa Rica, a distance of around 700 km. Two other female sharks (both likely mature, 200 cm TL) were tracked migrating from Darwin Island (Galapagos) to Cocos Island, a distance of 679 km. One of the females even returned to Darwin Island, indicating that these long distance migrations may be directed movements. Similarly, a female tagged at Malpelo Island (off Colombia) was tracked migrating to Cocos Island and then to Wolf and Darwin Islands. Results from another tagging study of scalloped hammerheads around Malpelo Island found many pregnant females leaving the island around March-April (Bessudo *et al.* 2011). As pupping tends to occur in the summer months off the continental Eastern Pacific (Torres *et al.* 2008; Rios-Jara *et al.* 2009; Zanella *et al.* 2009), it is thought that these long distance and seemingly directed movements across the Eastern Pacific may be conducted by female sharks during the final stages of the gestation period, with the sharks likely migrating to the continental coast for parturition (Bessudo *et al.* 2011; Ketchum *et al.* 2014b). Additionally, in the Ketchum *et al.* (2014b) study, one mature male scalloped hammerhead shark (218 cm TL) was also tracked making a long-distance migration. The shark travelled from Darwin Island to Malpelo Island (a distance of 627km) (Ketchum *et al.* 2014b). Given that this migration occurred during the same season as the female long-distance migrations, it could be that a small proportion of the mature male population may also undergo long-distance migrations, following reproductively active females to coastal nursery habitats for mating purposes.

Although the available information suggests that these sharks do undergo short and long-distance migrations, the space or migratory corridor used by scalloped hammerhead sharks during these migrations remains unknown. In addition, we are not aware of any migratory tracking studies that have been conducted in waters under U.S. jurisdiction and, therefore, have no information on any potential migratory corridors that may exist within waters under U.S. jurisdiction for the listed scalloped hammerhead DPSs. Based on the foregoing information, we cannot identify any specific essential features that define migratory habitat for scalloped hammerhead sharks.

*The Physical and Biological Features of Breeding Habitat That Are Essential to the Conservation of the Species*

Important areas for mating are largely unknown for scalloped hammerhead sharks. To identify potential sites as mating grounds, we looked for the presence of both mature females and males. For the most part, adult females are usually found schooling offshore with subadult females (Klimley 1985; Ketchum *et al.* 2014b). Studies have documented that these schools also consist of a few adult males (Klimley 1985; Ketchum *et al.* 2014a, 2014b). As such, potential mating events may occur in these offshore refuging schools, but this has not been confirmed. Furthermore, none of these refuging schools described above have been observed in waters under U.S. jurisdiction for the listed scalloped hammerhead DPSs.

Additionally, adult females, including ones that have recently given birth, are occasionally observed in identified nursery habitats along with adult males (Clark 1971; Dudley and Simpfendorfer 2006; Hussey *et al.* 2011). It is thought that mating may also occur during the principal pupping season, and potentially near these nursery areas (possibly over continental shelf or even near shelf slope; Kotas *et al.* 2012), with adult females moving inshore for a short time to mate and then proceeding to migrate offshore (Clarke 1971). Adult males, however, tend to be observed in larger numbers (sometimes with no evidence of mature females) staying in these inshore areas for longer periods of time, perhaps as a way to maximize the number of breeding females they can encounter (Clarke 1971; Dudley and Simpfendorfer 2006; Hussey *et al.* 2011; Yates *et al.* 2015). However, as stated above, the areas where scalloped hammerhead shark mating occurs remain unknown and purely speculative. There has not been any systematic evaluation of the particular physical or biological features that facilitate or are necessary for mating to occur. As such, we cannot identify physical or biological features of breeding habitat that are essential to the conservation of the species.

**Unoccupied Areas**

Section 3(5)(A)(ii) of the ESA defines critical habitat to include specific areas outside the geographical area occupied by a threatened or endangered species at the time it is listed if the areas are determined by the Secretary to be essential for the conservation of the species. Regulations at 50 CFR 424.12(e) specify that we shall designate as critical habitat areas outside the geographical area presently occupied by a species only when a designation limited to its present range would be inadequate to ensure the conservation of the species. Our regulations at 50 CFR 424.12(h) also state: ''Critical habitat shall not be designated within foreign countries or in other areas outside of United States jurisdiction.''

As discussed previously, the waters off California are not considered part of the geographical area occupied by the Eastern Pacific DPS at the time of listing. We also conclude that it is not an unoccupied area essential to the DPS' conservation, given the rare, errant use of the area by vagrant scalloped hammerhead sharks in the past, with this use associated only with sporadic weather events, and the fact that we have no information to suggest the area is essential to the conservation of the DPS. Furthermore, for the areas under U.S. jurisdiction off USVI, Puerto Rico, Navassa Wildlife Refuge, and CNMI, which we could not conclude were occupied by the applicable scalloped hammerhead DPSs at the time of listing, we found no information that would indicate these areas are essential for the conservation of the listed DPSs. Scalloped hammerhead sharks are highly migratory, and although they may have historically been observed in these waters, the lack of historical or anecdotal data or information tends to suggest these may have been rare or sporadic occurrences as the shark passed through these waters. We do not find that these unoccupied areas under U.S. jurisdiction, which additionally comprise such small portions of the overall ranges of the listed DPSs, are essential to the conservation of the listed DPSs. As such, we find that there are no identifiable areas outside the geographical areas occupied by the listed DPSs that would meet the definition of critical habitat for the scalloped hammerhead shark DPSs.

Any conservation actions for the listed scalloped hammerhead shark DPSs that would bring these DPSs to the point that the measures of the ESA are no longer necessary will need to be implemented by foreign nations. As noted in the final rule (79 FR 38213, July 3, 2014), the significant operative threats to the listed scalloped hammerhead DPSs are overutilization by foreign industrial, commercial, and artisanal fisheries and inadequate regulatory mechanisms in foreign nations to protect these sharks from the heavy fishing pressure and related mortality, with illegal fishing identified as a significant problem in areas outside of U.S. jurisdiction. Thus, recovery of the listed DPSs is highly dependent upon international conservation efforts. This includes increased protection for the listed DPSs from fishery-related mortality, especially within those foreign areas described above where the biological behaviors that support the life-history needs of the listed DPSs have been observed (*e.g.,* the identified nursery grounds in foreign waters). We are committed to increasing the awareness of the threats to these listed DPSs and encourage the development of conservation programs by foreign nations and international regulations to protect these DPSs. For example, we recently collaborated with a coalition of countries to gain support for a proposal to add three hammerhead shark species (scalloped, smooth, and great) to Appendix II of the Convention on the International Trade in Endangered Species of Wild Fauna and Flora (CITES). In March 2013, at the 16th Meeting of the Conference of the Parties to CITES, member nations, referred to as ''Parties,'' voted in support of this proposal, an action that will complement existing international shark protection measures by ensuring trade of these hammerhead shark species is sustainable and does not threaten their survival. We will continue to be a leader in promoting the conservation and management of sharks globally, and will work internationally within regional fisheries management organizations and other international bodies to promote the adoption of conservation and management measures, particularly for the listed scalloped hammerhead shark DPSs.

**Critical Habitat Determination**

Given the best available information and the above analysis of this information, we find that there are no identifiable occupied areas under the jurisdiction of the United States with physical or biological features that are essential to the conservation of the species or unoccupied areas that are essential to the conservation of the species. Therefore, we conclude that for the Eastern Pacific DPS, Central & SW Atlantic DPS, and the Indo-West Pacific DPS, there are no specific areas within their respective ranges and under U.S. jurisdiction that meet the definition of critical habitat. Since there is not any habitat of scalloped hammerhead sharks in waters under U.S. jurisdiction that is considered to be critical habitat, there is no critical habitat to designate under ESA section 4(a)(3)(A)(i).

Although we have determined that no areas meet the definition of critical habitat for the listed scalloped hammerhead DPSs, the areas occupied by the DPSs under U.S. jurisdiction will continue to be subject to conservation actions implemented under section 7(a)(1) of the ESA, as well as consultation pursuant to section 7(a)(2) of the ESA for Federal activities that may affect the listed scalloped hammerhead DPSs, as determined on the basis of the best available information at the time of the action. Through the consultation process, we will continue to assess effects of Federal actions on these species and their habitat. In addition, the prohibitions against importing, exporting, engaging in foreign or interstate commerce, or ''taking'' of the scalloped hammerhead sharks of the Eastern Pacific DPS and Eastern Atlantic DPS under section 9 of the ESA continue to apply.

### References

A complete list of all references cited herein is available upon request (see **FOR FURTHER INFORMATION CONTACT**).

### Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: November 10, 2015.

**Samuel D. Rauch III,**

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

[FR Doc. 2015–29262 Filed 11–16–15; 8:45 am]

BILLING CODE 3510–22–P

## DEPARTMENT OF DEFENSE

### Department of the Air Force

**[Docket ID USAF–2013–0030]**

### Proposed Collection; Comment Request

**AGENCY:** Air Force Chief of Chaplains Office (DOD/USAF/HQ AF/HC), Department of the Air Force, Department of Defense.

**ACTION:** Notice.

**SUMMARY:** In compliance with the *Paperwork Reduction Act of 1995,* the Department of the Air Force announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Consideration will be given to all comments received by January 19, 2016.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

• Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

• Mail: Department of Defense, Office of the Deputy Chief Management Officer, Directorate of Oversight and Compliance, Regulatory and Audit Matters Office, 9010 Defense Pentagon, Washington, DC 20301–9010.

*Instructions:* All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information. Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Chaplain Corps Accounting Center, 266 F Street, Suite 2, JBSA Randolph, TX 78150–4583, email *gary.gilliam.1@us.af.mil* or call (210) 652–5122 option 9.

**SUPPLEMENTARY INFORMATION:**

*Title; Associated Form; and OMB Number:* AF Form 4356, Chapel Tithes and Offering Fund (CTOF) Purchase Request, AF Form 4357, Chapel Tithes and Offering Fund (CTOF) Monthly Statement of Contract Services, and AF Form 4360, Chapel Tithes and Offering Fund (CTOF) Electronic Funds Transfer EFT, OMB Control Number 0701–TBD.

*Needs and Uses:* The information collection requirement is necessary to enable the request of advance funds for purchase of supplies for chapel projects, or for the payment of contract payments to Non-personnel Service Contracts between the local base chapel and each individual contractor. Air Force Instruction 52–105V2 requires that all contract payments only be accomplished by EFT, the 4360 Form gives CCAC the information needed to pay by EFT.

*Affected Public:* Individuals or Households.

*Annual Burden Hours:* 6,250 hours.

*Number of Respondents:* 5,000.

*Responses per Respondent:* 5.

*Annual Responses:* 25,000.

*Average Burden per Response:* 15 minutes.

*Frequency:* Annually.

The Chaplain Corps Accounting Center (CCAC) requires the forms to be completed and submitted, to have all the information needed to process fund requests and payments. The calculation of average burden per response uses fifteen minutes as an average time for each form. The only members of the public that are affected are those who require funds from the CCAC.

Dated: November 12, 2015.

**Aaron Siegel,**

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

[FR Doc. 2015–29337 Filed 11–16–15; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF DEFENSE

### Department of the Army

**[Docket ID: USA–2015–HQ–0045]**

### Proposed Collection; Comment Request

**AGENCY:** Civilian Human Resources Agency, DoD.

**ACTION:** Notice.

**SUMMARY:** In compliance with the *Paperwork Reduction Act of 1995,* the Civilian Human Resources Agency announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Consideration will be given to all comments received by January 19, 2016.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate of Oversight and Compliance, Regulatory and Audit Matters Office, 9010 Defense Pentagon, Washington, DC 20301–9010.

*Instructions:* All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are

received without change, including any personal identifiers or contact information. Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Department of Defense, Headquarters Department of the Army (HQDA) G–1, Civilian Human Resources Agency (CHRA), ATTN: Civilian Information Services Division (CISD), Mark A. Patterson, Chief, Fort Belvoir, VA 22060, or call CISD at 703–806–3232.

**SUPPLEMENTARY INFORMATION:**

*Title; Associated Form; and OMB Number:* Army Recruitment & Personnel Management of Local Foreign National Employment; AE Form 690–70A; OMB Control Number 0702–XXXX.

*Needs and Uses:* The information collection requirement is necessary to issue referral notices to fill jobs, issue a priority placement referral for individuals under Reduction-In-Force (RIF), to generate termination notifications, and to apply for initial employment.

*Affected Public:* Individuals or households.

*Annual Burden Hours:* 1,670.

*Number of Respondents:* 10,000.

*Responses per Respondent:* 1.

*Annual Responses:* 10,000.

*Average Burden per Response:* 10 minutes.

*Frequency:* On occasion.

This OMB number is being requested to support recruitment and personnel management of local foreign national (FN) employment. The following systems currently fall under this scope: Local National Staffing Suite [LNSS] and Korean National Recruitment System [KNRS].

LNSS consists of the Local National Recruitment System (LNRS) and the Europe Summer Hire Application (ESH).

AE Form 690–70A is the application form that employment respondents must complete to be considered for positions in Germany. The form is written in both English and German. The completed form is stored as a record of the respondent's personal information, education, employment history, military history, and availability, as well as a list of applicable language(s) and other skills. If this form is not submitted, the respondent will not be eligible for employment positions through LNSS. Personally Identifiable Information (PII) on the AE Form 690–70A is entered into the LNSS system by the Administration Assistant.

Local National Recruitment System (LNRS) is a component of Local National Staffing Suite (LNSS). LNRS was developed to automate German Local National (LN) recruitment processes for United States Army Europe (USAREUR). The application supports the Army Civilian Personnel Operations Center (CPOC) and services Civilian Personnel Advisory Centers (CPACs) in Europe. The application is primarily used to automate local national recruitment processes for USAREUR including Priority Placement, Reduction In Force, and Referrals, while taking into account the Local National Tariff Agreements. LNRS is accessible at the following URL: *https://acpol2.army.mil/lnrs.*

Europe Summer Hire Application (ESH) is a component of Local National Staffing Suite (LNSS). ESH is a Web-based government developed Linux application accessible at *https://acpol2.army.mil/sh/staffing/summerhire.* ESH allows the accumulation of resume data for summer hiring of German local nationals to work in and support the Army USAREUR civilian personnel community. ESH is designed to contain and rank resumes of local nationals in USAREUR area to work in and support the Army civilian personnel community and to allow the HR Specialist to review the resume information. ESH consists of a Linux web/application server using Microsoft Internet Information Services (IIS) and a Linux database server using Oracle.

Korean National Recruitment System (KNRS) respondents are employment applicants. KNRS was developed to provide immediate and accurate status/response to applicants via a Web-based interface. KNRS provides customers with a timely and more reliable customer service system. It also eliminates the long wait periods when recruiting Korean National (KN) employees to support the Army's FN mission. Respondents (applicants) enter their own employment application information directly into the electronic form in the system. The electronic form is a record of the respondent's personal information, education, employment history, military history, and other qualifications and skills. If this electronic form is not submitted, the respondent will not be eligible for the KN employment position. KNRS is accessible at the following URL: *https://lr.acpol.army.mil/knrs/selfservice.*

Dated: November 10, 2015.

**Aaron Siegel,**

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

[FR Doc. 2015–29248 Filed 11–16–15; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Department of the Army

**[Docket ID: USA–2014–0048]**

### Submission for OMB Review; Comment Request

**ACTION:** Notice.

**SUMMARY:** The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

**DATES:** Consideration will be given to all comments received by December 17, 2015.

**FOR FURTHER INFORMATION CONTACT:** Fred Licari, 571–372–0493.

**SUPPLEMENTARY INFORMATION:**

*Title, Associated Form and OMB Number:* Exchange Retail Sales Transaction Data Surveys; OMB Control Number 0702–XXXX.

*Type of Request:* Existing collection in use without an OMB Control Number.

*Number of Respondents:* 595,968.

*Responses per Respondent:* 1.

*Annual Responses:* 595,968.

*Average Burden per Response:* 3 minutes.

*Annual Burden Hours:* 29,798.

*Needs and Uses:* The information collection requirement is necessary to enable the Exchange to fulfill its mission and enhance the military community by providing a world-wide system of Exchanges with merchandise and household goods similar to commercial stores and services; for use in responding to individual patron satisfaction with the delivery of the Exchange benefit, and in determining the appropriate product availability meeting the Exchange customers' current/future needs and wants; to improve the efficiency and effectiveness of the Exchange's marketing programs; to determine actions required to settle customer complaints; to electronically notify potential customers, who voluntarily provide their email address, and other personal information about shopping at the Exchange using voluntary opt-in procedures.

*Affected Public:* Individuals or households.

*Frequency:* On occasion.

*Respondent's Obligation:* Voluntary.

*OMB Desk Officer:* Ms. Jasmeet Seehra.

Comments and recommendations on the proposed information collection should be emailed to Ms. Jasmeet Seehra, DoD Desk Officer, at *Oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

*Instructions:* All submissions received must include the agency name, Docket ID number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

*DOD Clearance Officer:* Mr. Frederick Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at WHS/ESD Directives Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: November 10, 2015.

**Aaron Siegel,**

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

[FR Doc. 2015–29201 Filed 11–16–15; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

**[Docket ID DoD–2015–OS–0128]**

### Proposed Collection; Comment Request

**AGENCY:** Office of the Assistant Secretary of Defense for Acquisition, Technology and Logistics, DoD.

**ACTION:** Notice.

**SUMMARY:** In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Assistant Secretary of Defense for Acquisition Technology and Logistics announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Consideration will be given to all comments received by January 19, 2016.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate of Oversight and Compliance, Regulatory and Audit Matters Office, 9010 Defense Pentagon, Washington, DC 20301–9010.

*Instructions:* All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the STEM Program Office, Mark Center, 4800 Mark Center Drive, Room 17C08, Alexandria, Virginia 22350–3600, ATTN: Karen Saunders or call STEM Program Office, at 571 2372 6542.

**SUPPLEMENTARY INFORMATION:**

*Title; Associated Form; and OMB Number:* SMART Program Documents, OMB Control Number 0704–0446.

*Needs and Uses:* The information collection requirement is a statutory and functional necessary to administer the SMART scholarship program. The SMART Program requires a competitive application process. All awardees must be U.S. citizens at the time of application, 18 years or older as of 1 August 2015, able to participate in summer internships at DoD laboratories, willing to accept post-graduation employment with the DoD, be a current college student in good standing with a minimum GPA of 3.0 on a 4.0 scale (as calculated by the SMART application), pursuing an undergraduate or graduate degree in one of the 19 program funded disciplines, and eligible to obtain and maintain a secret level security clearance.

*Affected Public:* Individuals or households.

*Annual Burden Hours:* 420,000.

*Number of Respondents:* 2,800.

*Responses per Respondent:* 6.

*Annual Responses:* 16,800.

*Average Burden per Response:* 25 hours.

*Frequency:* On occasion.

Respondents are college students or current Department of Defense (DoD) employees who provide academic information to the SMART Program Office. The application is an on line form requesting academic merit, and compatibility with DoD workforce needs. The information collected consists of applications submitted by members of the general public and current DoD personnel who actively choose to become involved in SMART and thus become subject to information collection. The applications include information on academic records, community and volunteer activities, letters of recommendations from faculty and community leaders, a list of publications, work experience, certification of citizenship and personal contact information. All this information is necessary to evaluate and rank each candidate's credentials for awarding scholarships and determining whether the candidate meets specific DoD facility workforce needs. Having qualified candidates provide academic and work force compatibility with the mission of the DoD is essential in maintaining a STEM work for DoD Laboratories.

Dated: November 10, 2015.

**Aaron Siegel,**

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

[FR Doc. 2015–29197 Filed 11–16–15; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF EDUCATION

**[Docket No.: ED–2015–ICCD–0131]**

### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Middle Grades Longitudinal Study of 2017–2018 (MGLS:2017) Recruitment for 2017 Operational Field Test

**AGENCY:** National Center for Education Statistics (NCES), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a revision of an existing information collection.

**DATES:** Interested persons are invited to submit comments on or before December 17, 2015.

**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–2015–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, 400 Maryland Avenue SW., LBJ, Room 2E105, Washington, DC 20202–4537.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Kashka Kubzdela at (202) 502–7411or by email *kashka.kubzdela@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:* Middle Grades Longitudinal Study of 2017–2018 (MGLS:2017) Recruitment for 2017 Operational Field Test

*OMB Control Number:* 1850–0911.

*Type of Review:* A revision of an existing information collection.

*Respondents/Affected Public:* Individuals.

*Total Estimated Number of Annual Responses:* 21,232.

*Total Estimated Number of Annual Burden Hours:* 6,947.

*Abstract:* The Middle Grades Longitudinal Study of 2017–2018 (MGLS:2017) is the first study sponsored by the National Center for Education Statistics (NCES), within the Institute of Education Sciences (IES) of the U.S. Department of Education (ED), to follow a nationally-representative sample of students as they enter and move through the middle grades (grades 6–8). The data collected through repeated measures of key constructs will provide a rich descriptive picture of the academic experiences and development of students during these critical years and will allow researchers to examine associations between contextual factors and student outcomes. The study will focus on student achievement in mathematics and literacy along with measures of student socioemotional wellbeing and other outcomes. The study will also include a special sample of students with different types of disabilities that will provide descriptive information on their outcomes, educational experiences, and special education services. Baseline data for the MGLS:2017 will be collected from a nationally-representative sample of 6th grade students beginning in January 2018, with annual follow-ups beginning in January 2019 and in January 2020 when most of the students in the sample will be in grades 7 and 8, respectively. This request is to contact and recruit public school districts and public and private schools, beginning in January 2016, to participate in the MGLS:2017 Operational Field Test (OFT) which will take place from January to June 2017. The primary purpose of the OFT is to obtain information on recruiting, particularly for the targeted disability groups; obtaining a tracking sample that can be used to study mobility patterns in subsequent years; and testing protocols and administrative procedures. The OFT will inform the materials and procedures for the main study base year and follow-up data collections. The base year data collection will begin in January 2018. Because the MGLS:2017 Item Validation Field Test (IVFT) recruitment and data collection will still be ongoing at the time this request is approved, the burden and materials from the MGLS:2017 Recruitment for 2016 IVFT request (OMB# 1850–0911 v.3, 5, and 7) and from the MGLS:2017 IVFT Data Collection (OMB# 1850–0911 v.4) are being carried over in this submission.

Dated: November 10, 2015.

**Stephanie Valentine,**

*Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.*

[FR Doc. 2015–29189 Filed 11–16–15; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

**[Docket No.: ED–2015–ICCD–0093]**

### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Guaranty Agencies Security Self-Assessment and Attestation

**AGENCY:** Federal Student Aid (FSA), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

**DATES:** Interested persons are invited to submit comments on or before December 17, 2015

**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–2015–ICCD–0093. 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, 400 Maryland Avenue SW., LBJ, Room 2E105, Washington, DC 20202–4537.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

**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:* Guaranty Agencies Security Self-Assessment and Attestation.

*OMB Control Number:* 1845–0134.

*Type of Review:* An extension of an existing information collection.

*Respondents/Affected Public:* Private Sector.

*Total Estimated Number of Annual Responses:* 28.

*Total Estimated Number of Annual Burden Hours:* 8,848.

*Abstract:* The E-Government Act (Pub. L. 107–347) passed by the 107th Congress and signed into law by the President in December 2002 recognized the importance of information security to the economic and national security interests of the United States. Title III of the E-Government Act, entitled the Federal Information Security Management Act (FISMA) requires each federal agency to develop, document, and implement an agency-wide program to provide information security for the information and information systems that support the operations and assets of the agency, including those provided or managed by another agency, contractor, or other source. FISMA, along with the Paperwork Reduction Act of 1995 and the Information Technology Management Reform Act of 1996 (Clinger-Cohen Act), explicitly emphasizes a risk-based policy for cost-effective security.

FSA is initiating a formal assessment program of the Guaranty Agencies that will ensure the continued confidentiality and integrity of data entrusted to FSA by students and families. The assessment will identify security deficiencies based on the Federal standards described in the National Institute of Standards and Technology (NIST) publications. The comprehensive self-assessment links all questions with a NIST control. This collection of information impacts 28 independently owned Guaranty Agencies (GAs) dispersed throughout the U.S. Each agency is under signed agreement with the Department of Education to service Federal Family Education Loans that have been turned over from the lending institutions to the GAs for the purpose of student loan collections.

Dated: November 10, 2015.

**Stephanie Valentine,**

*Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.*

[FR Doc. 2015–29190 Filed 11–16–15; 8:45 am]

**BILLING CODE 4000–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Notice of Commission Staff Attendance

The Federal Energy Regulatory Commission hereby gives notice that members of the Commission's (Commission) staff will attend the following meeting related to the Midcontinent Independent System Operator, Inc. (MISO)—PJM Interconnection, L.L.C. (PJM) Joint and Common Market Initiative (Docket No. AD14–3–000):

MISO/PJM Joint Stakeholder Meeting—November 18, 2015

The above-referenced meeting will be held at: MISO Headquarters, 720 City Center Drive, Carmel, IN 46032–7574.

The above-referenced meeting is open to the public.

Further information may be found at *www.misoenergy.org.*

The discussions at the meeting described above may address matters at issue in the following proceedings:

*Docket No. EL13–88, Northern Indiana Public Service Company v. Midcontinent Independent System Operator, Inc. and PJM Interconnection, L.L.C.*
*Docket No. EL11–34, Midcontinent Independent System Operator, Inc.*
*Docket No. EL14–21, Southwest Power Pool, Inc. v. Midcontinent Independent System Operator, Inc.*
*Docket No. EL14–30, Midcontinent Independent System Operator, Inc. v. Southwest Power Pool, Inc.*
*Docket No. ER11–1844, Midwest Independent Transmission System Operator, Inc.*
*Docket No. ER10–1791, Midwest Independent Transmission System Operator, Inc.*
*Docket Nos. ER13–1923, ER13–1938, ER13–1943, ER13–1945, Midcontinent Independent System Operator, Inc.*
*Docket Nos. ER13–1924, ER13–1926, ER13–1936, ER13–1944, ER13–1947, ER15–2200, PJM Interconnection, L.L.C.*
*Docket Nos. ER13–1937, ER13–1939, Southwest Power Pool, Inc.*
*Docket No. ER14–1174, Southwest Power Pool, Inc.*
*Docket No. ER14–1736, Midcontinent Independent System Operator, Inc.*
*Docket No. ER14–2022, Midcontinent Independent System Operator, Inc.*
*Docket No. ER14–2445, Midcontinent Independent System Operator, Inc.*
*Docket No. ER16–56, Midcontinent Independent System Operator, Inc.*
*Docket No. ER15–2613, PJM Interconnection, L.L.C.*
*Docket No. ER15–2616, Midcontinent Independent System Operator, Inc.*
*Docket No. EL15–99, Internal MISO Generation v. Midcontinent Independent System Operator, Inc.*

For more information, contact Valerie Teeter, Office of Energy Policy and Innovation, Federal Energy Regulatory Commission at (202) 502–8538 or *Valerie.Teeter@ferc.gov.*

Dated: November 10, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–29266 Filed 11–16–15; 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:* EC16–31–000.
*Applicants:* Slate Creek Wind Project, LLC.
*Description:* Application for Authorization under Section 203 of the FPA of Slate Creek Wind Project, LLC and Requests for Expedited Consideration and Confidential Treatment.
*Filed Date:* 11/9/15.
*Accession Number:* 20151109–5244.
*Comments Due:* 5 p.m. ET 11/30/15.

*Docket Numbers:* EC16–32–000.
*Applicants:* CPV Shore, LLC.
*Description:* Application for Authorization Under Section 203 of the Federal Power Act and Request for Waivers, Confidential Treatment, Expedited Action and Shortened Comment Period of CPV Shore, LLC.
*Filed Date:* 11/10/15.
*Accession Number:* 20151110–5137.
*Comments Due:* 5 p.m. ET 12/1/15.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER15–746–002.
*Applicants:* RC Cape May Holdings, LLC.
*Description:* Report Filing: Supplement to Refund Report to be effective N/A.
*Filed Date:* 11/9/15.
*Accession Number:* 20151109–5113.
*Comments Due:* 5 p.m. ET 11/30/15.

*Docket Numbers:* ER15–2418–002.
*Applicants:* Pacific Gas and Electric Company.
*Description:* Compliance filing: eTariff Migration Compliance Filing for BART NITSA Schedule 7 to be effective 12/31/9998.
*Filed Date:* 11/9/15.
*Accession Number:* 20151109–5195.
*Comments Due:* 5 p.m. ET 11/30/15.

*Docket Numbers:* ER16–132–001.
*Applicants:* Michigan Electric Transmission Company, LLC.
*Description:* Tariff Amendment: Filing of Agreement for Sharing of Security Related Costs to be effective 12/21/2015.
*Filed Date:* 11/10/15.
*Accession Number:* 20151110–5093.
*Comments Due:* 5 p.m. ET 12/1/15.

*Docket Numbers:* ER16–296–000.
*Applicants:* Alabama Power Company.
*Description:* § 205(d) Rate Filing: SWE (PowerSouth Territorial) NITSA Amendment (Add CVEC Talladega-Mitchell Rd DP) to be effective 10/31/2015.
*Filed Date:* 11/9/15.
*Accession Number:* 20151109–5206.
*Comments Due:* 5 p.m. ET 11/30/15.

*Docket Numbers:* ER16–297–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* § 205(d) Rate Filing: 2652R3 Waverly Wind Farm LLC GIA to be effective 10/19/2015.
*Filed Date:* 11/10/15.
*Accession Number:* 20151110–5033.
*Comments Due:* 5 p.m. ET 12/1/15.

*Docket Numbers:* ER16–298–000.
*Applicants:* American Electric Power Service Corporation.
*Description:* Application for Limited Waiver of American Electric Power Service Corporation, on behalf of its state-regulated utility affiliates within PJM Interconnection, L.L.C.
*Filed Date:* 11/9/15.
*Accession Number:* 20151109–5252.
*Comments Due:* 5 p.m. ET 11/30/15.

*Docket Numbers:* ER16–299–000.
*Applicants:* AEP Texas North Company.
*Description:* § 205(d) Rate Filing: TNC-SolaireHolman 1 Interconnection Agreement to be effective 10/22/2015.
*Filed Date:* 11/10/15.
*Accession Number:* 20151110–5051.
*Comments Due:* 5 p.m. ET 12/1/15.

*Docket Numbers:* ER16–300–000.
*Applicants:* AEP Texas Central Company.
*Description:* § 205(d) Rate Filing: TCC-The City of Brownsville TX IA First Amend & Restated to be effective 10/16/2015.
*Filed Date:* 11/10/15.
*Accession Number:* 20151110–5056.
*Comments Due:* 5 p.m. ET 12/1/15.

*Docket Numbers:* ER16–301–000.
*Applicants:* Southern California Edison Company.
*Description:* § 205(d) Rate Filing: Distribution Service Agmt with Calleguas Municipal Water District to be effective 1/10/2016.
*Filed Date:* 11/10/15.
*Accession Number:* 20151110–5077.
*Comments Due:* 5 p.m. ET 12/1/15.

*Docket Numbers:* ER16–302–000.
*Applicants:* Southern California Edison Company.
*Description:* § 205(d) Rate Filing: True-Up SGIA and Distribution Service Agmt US Borax to be effective 1/10/2016.
*Filed Date:* 11/10/15.
*Accession Number:* 20151110–5079.
*Comments Due:* 5 p.m. ET 12/1/15.

*Docket Numbers:* ER16–303–000.
*Applicants:* Southern California Edison Company.
*Description:* § 205(d) Rate Filing: GIA & Distribution Service Agreement Ganna Halvorsen Covina Solar Project to be effective 1/10/2016.
*Filed Date:* 11/10/15.
*Accession Number:* 20151110–5094.
*Comments Due:* 5 p.m. ET 12/1/15.

*Docket Numbers:* ER16–304–000.
*Applicants:* PacifiCorp.
*Description:* § 205(d) Rate Filing: BPA Construction Agmt—Conversion Ross-Lex-Swift to be effective 1/10/2016.
*Filed Date:* 11/10/15.
*Accession Number:* 20151110–5105.
*Comments Due:* 5 p.m. ET 12/1/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 10, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–29265 Filed 11–16–15; 8:45 am]

BILLING CODE 6717–01–P

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CD16–2–000]**

### Roger Rolfe; Notice of Preliminary Determination of a Qualifying Conduit Hydropower Facility and Soliciting Comments and Motions To Intervene

On November 3, 2015, Roger Rolfe filed a notice of intent to construct a qualifying conduit hydropower facility, pursuant to section 30 of the Federal Power Act (FPA), as amended by section 4 of the Hydropower Regulatory Efficiency Act of 2013 (HREA). The proposed Rolfe Hydro Project would have an installed capacity of 2 kilowatts (kW) and would be located at the vault on the 6-inch diameter irrigation pipe on the Rolfe property. The project would be located near the town of

Cimarron in Gunnison County, Colorado.

*Applicant Contact:* Gabe Stephens, Black Canyon Resources, LLC, P.O. Box 1781, Gunnison, CO 81230, Phone No. (970) 946–5096.

*FERC Contact:* Robert Bell, Phone No. (202) 502–6062, email: *robert.bell@ferc.gov.*

*Qualifying Conduit Hydropower Facility Description:* The proposed project would consist of: (1) Replacing the existing gate valves with an impulse turbine with an installed capacity of 2 kW; (3) a 15-foot-long, 8-inch-diameter discharge pipe reducing to 6-inch diameter connecting to the existing 6-inch-diameter irrigation pipeline; and (4) appurtenant facilities. The proposed project would have an estimated annual generating capacity of 11.4 megawatt-hours.

A qualifying conduit hydropower facility is one that is determined or deemed to meet all of the criteria shown in the table below.

TABLE 1—CRITERIA FOR QUALIFYING CONDUIT HYDROPOWER FACILITY

| Statutory provision | Description | Satisfies (Y/N) |
|---|---|---|
| FPA 30(a)(3)(A), as amended by HREA. | The conduit the facility uses a tunnel, canal, pipeline, aqueduct, flume, ditch, or similar man-made water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity. | Y |
| FPA 30(a)(3)(C)(i), as amended by HREA. | The facility is constructed, operated, or maintained for the generation of electric power and uses for such generation only the hydroelectric potential of a non-federally owned conduit. | Y |
| FPA 30(a)(3)(C)(ii), as amended by HREA. | The facility has an installed capacity that does not exceed 5 megawatts | Y |
| FPA 30(a)(3)(C)(iii), as amended by HREA. | On or before August 9, 2013, the facility is not licensed, or exempted from the licensing requirements of Part I of the FPA. | Y |

*Preliminary Determination:* Based upon the above criteria, Commission staff preliminarily determines that the proposal satisfies the requirements for a qualifying conduit hydropower facility, which is not required to be licensed or exempted from licensing.

*Comments and Motions to Intervene:* Deadline for filing comments contesting whether the facility meets the qualifying criteria is 45 days from the issuance date of this notice.

Deadline for filing motions to intervene is 30 days from the issuance date of this notice.

Anyone may submit comments or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.214. Any motions to intervene must be received on or before the specified deadline date for the particular proceeding.

*Filing and Service of Responsive Documents:* All filings must (1) bear in all capital letters the ''COMMENTS CONTESTING QUALIFICATION FOR A CONDUIT HYDROPOWER FACILITY'' or ''MOTION TO INTERVENE,'' as applicable; (2) state in the heading the name of the applicant and the project number of the application to which the filing responds; (3) state the name, address, and telephone number of the person filing; and (4) otherwise comply with the requirements of sections 385.2001 through 385.2005 of the Commission's regulations.[1] All comments contesting Commission staff's preliminary determination that the facility meets the qualifying criteria must set forth their evidentiary basis.

[1] 18 CFR 385.2001–2005 (2015).

The Commission strongly encourages electronic filing. Please file motions to intervene and comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

*Locations of Notice of Intent:* Copies of the notice of intent can be obtained directly from the applicant or such copies can be viewed and reproduced at the Commission in its Public Reference Room, Room 2A, 888 First Street NE., Washington, DC 20426. The filing may also be viewed on the web at *http://www.ferc.gov/docs-filing/elibrary.asp* using the ''eLibrary'' link. Enter the docket number (*e.g.,* CD16–2–000) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659.

Dated: November 10, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–29264 Filed 11–16–15; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 10309–001]**

### Darren K. Vaughn, Scott M. Fodor, Trust; Notice of Transfer of Exemption

1. By letter filed November 3, 2015, Darren K. Vaughn informed the Commission that the exemption from licensing for the Flying W Project No. 10309, originally issued July 21, 1987[1] has been transferred to Scott M. Fodor, Trust. The name of the project has been changed from Flying W to Scott M. Fodor, Trust. The project is located on an irrigation pipe near Emmett in Valley County, Idaho. The transfer of an exemption does not require Commission approval.

2. Scott M. Fodor, Trust is now the exemptee of the Scott M. Fodor, Trust Project, No. 10309. All correspondence should be forwarded to: Scott M. Fodor, Trust, 10644 W. Coleman Road, Barryton, MI 49305.

Dated: November 10, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–29267 Filed 11–16–15; 8:45 am]

**BILLING CODE 6717–01–P**

[1] 40 FERC ¶ 62,056 (1987), Order Granting Exemption from Licensing (Conduit).

**ENVIRONMENTAL PROTECTION AGENCY**

**[EPA–HQ–OAR–2015–0224; FRL–9939–16–OAR]**

## California State Nonroad Engine Pollution Control Standards; In-Use Diesel-Fueled Transport Refrigeration Units (TRUs) and TRU Generator Sets and Facilities Where TRUs Operate; Request for Within-the-Scope and Full Authorization; Opportunity for Public Hearing and Comment

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

**ACTION:** Notice.

**SUMMARY:** The California Air Resources Board (CARB) has notified the Environmental Protection Agency (EPA) that it has adopted amendments to its In-Use Diesel-Fueled Transport Refrigeration Units (TRUs) and TRU Generator Sets and Facilities Where TRUs Operate (together ''2011 TRU Amendments'') regulation. By letter dated March 2, 2015, CARB asked that EPA authorize these amendments pursuant to section 209(e) of the Clean Air Act. CARB seeks confirmation that certain 2011 TRU Amendments are within the scope of prior authorizations issued by EPA, or, in the alternative, that such amendments merit full authorization. CARB also seeks a full authorization for other 2011 TRU Amendments. This notice announces that EPA has tentatively scheduled a public hearing to consider California's authorization request for the 2011 TRU Amendments and that EPA is now accepting written comment on the request.

**DATES:** EPA has tentatively scheduled a public hearing concerning CARB's request on January 6, 2016, at 10 a.m. ET. EPA will hold a hearing only if any party notifies EPA by December 15, 2015 to express interest in presenting the Agency with oral testimony. Parties wishing to present oral testimony at the public hearing should provide written notice to David Dickinson at the email address noted below. If EPA receives a request for a public hearing, that hearing will be held at the William Jefferson Clinton Building (North), Room 5528 at 1200 Pennsylvania Ave. NW., Washington, DC 20460. If EPA does not receive a request for a public hearing, then EPA will not hold a hearing, and instead will consider CARB's request based on written submissions to the docket. Any party may submit written comments until February 8, 2016.

Any person who wishes to know whether a hearing will be held may call David Dickinson at (202) 343–9256 on or after December 16, 2015.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2015–0224, by one of the following methods:

- Online at *http://www.regulations.gov:* Follow the Online Instructions for Submitting Comments.
- *Email: a-and-r-docket@epa.gov.*
- *Fax:* (202) 566–9744.
- *Mail:* Air and Radiation Docket, Docket ID No. EPA–HQ–OAR–2015–0224, U.S. Environmental Protection Agency, Mail code: 6102T, 1200 Pennsylvania Avenue NW., Washington, DC 20460. Please include a total of two copies.
- *Hand Delivery:* EPA Docket Center, Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Online Instructions for Submitting Comments:* Direct your comments to Docket ID No. EPA–HQ–OAR–2015–0224. EPA's policy is that all comments we receive will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will automatically be captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

EPA will make available for public inspection materials submitted by CARB, written comments received from any interested parties, and any testimony given at the public hearing. Materials relevant to this proceeding are contained in the Air and Radiation Docket and Information Center, maintained in Docket ID No. EPA–HQ–OAR–2015–0224. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Air and Radiation Docket in the EPA Headquarters Library, EPA West Building, Room 3334, located at 1301 Constitution Avenue NW., Washington, DC. The Public Reading Room is open to the public on all federal government work days from 8:30 a.m. to 4:30 p.m.; generally, it is open Monday through Friday, excluding holidays. The telephone number for the Reading Room is (202) 566–1744. The Air and Radiation Docket and Information Center's Web site is *http://www.epa.gov/oar/docket.html.* The electronic mail (email) address for the Air and Radiation Docket is: *a-and-r-Docket@epa.gov,* the telephone number is (202) 566–1742, and the fax number is (202) 566–9744. An electronic version of the public docket is available through the federal government's electronic public docket and comment system. You may access EPA dockets at *http://www.regulations.gov.* After opening the *http://www.regulations.gov* Web site, enter, in the ''Enter Keyword or ID'' fill-in box to view documents in the record. Although a part of the official docket, the public docket does not include Confidential Business Information (''CBI'') or other information whose disclosure is restricted by statute.

EPA's Office of Transportation and Air Quality also maintains a Web page that contains general information on its review of California waiver and authorization requests. Included on that page are links to prior waiver and authorization **Federal Register** notices. The page can be accessed at *http://www.epa.gov/otaq/cafr.htm.*

**FOR FURTHER INFORMATION CONTACT:**
David Dickinson, Attorney-Advisor, Transportation and Climate Division, Office of Transportation and Air Quality, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., (6405J), Washington, DC 20460. Telephone: (202) 343–9256. Fax: (202) 343–2804. Email: *dickinson.david@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. California's TRU Regulations; Within-the-Scope Request and Request for Full Authorization

CARB's TRU regulations require TRU engines to meet in-use standards that vary by horsepower (hp) range and have two levels of emissions stringency (LETRU and ULETRU—low-emission and ultra-low emission transportation refrigeration units, respectively) that are phased in over time.[1] The 2011 Amendments provide owners of 2001 through 2003 model year (MY) TRU engines that complied with the LETRU in-use performance standards by specified compliance deadlines a one-year extension of the deadline to comply with the more stringent ULETRU in-use performance standards.[2] The 2011 Amendments also clarify manual recordkeeping requirements for electric standby-equipped TRUs and ultimately require automated electronic tracking system requirements for such TRUs; establish requirements for businesses that arrange, hire, contract, or dispatch the transport of goods in TRU-equipped trucks, trailers or containers; and address other issues that arose during the initial implementation of the TRU regulation.[3]

By letter dated March 2, 2015, CARB submitted a request to EPA pursuant to section 209(e) of the Clean Air Act (CAA or the Act) for confirmation that its 2011 Amendments fall within the scope of EPA's previous authorizations, or, in the alternate, a full authorization for those amendments. Included in the within-the-scope request are the 2011 Amendments that (1) extend the ULETRU compliance date for MY 2003 and older TRUs that complied with the LETRU standard by specified dates; (2) extend compliance dates when compliant technology is unavailable or delayed for certain reasons; (3) establish new exemptions;[4] and (4) allow in-use performance standards and associated compliance deadlines to be based on the year the TRU was manufactured instead of the TRU engine model year. CARB also seeks within-the-scope confirmation that certain amendments to its accompanying enforcement procedures are within the scope of prior EPA authorizations.[5] CARB seeks a full authorization for a subset of the 2011 Amendments that set forth requirements for repowering TRUs with new replacement engines and that allow owners to repower TRUs with rebuilt engines meeting certain requirements. CARB also seeks a full authorization for a series amendments to the TRU accompanying enforcement procedures.[6]

## II. Clean Air Act Nonroad Engine and Vehicle Authorizations

Section 209(e)(1) of the CAA prohibits states and local governments from adopting or attempting to enforce any standard or requirement relating to the control of emissions from certain types of new nonroad vehicles or engines. The Act also preempts states from adopting and enforcing standards and other requirements related to the control of emissions from other types of new nonroad vehicles or engines as well as non-new nonroad engines or vehicles. Section 209(e)(2), however, requires the Administrator, after notice and opportunity for public hearing, to authorize California to adopt and enforce standards and other requirements relating to the control of emissions from such preempted vehicles or engines if California determines that California standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. However, EPA shall not grant such authorization if it finds that (1) the determination of California is arbitrary and capricious; (2) California does not need such California standards to meet compelling and extraordinary conditions; or (3) California standards and accompanying enforcement procedures are not consistent with [CAA section 209].[7] In addition, other states with air quality attainment plans may adopt and enforce such regulations if the standards and the implementation and enforcement procedures are identical to California's standards. On July 20, 1994, EPA promulgated a rule that sets forth, among other things, regulations providing the criteria, as found in section 209(e)(2), which EPA must consider before granting any California authorization request for new nonroad engine or vehicle emission standards.[8] EPA revised these regulations in 1997.[9] As stated in the preamble to the 1994 rule, EPA has historically interpreted the section 209(e)(2)(A)(iii) ''consistency'' inquiry to require, at minimum, that California standards and enforcement procedures be consistent with section 209(a), section 209(e)(1), and section 209(b)(1)(C) (as EPA has interpreted that subsection in the context of section 209(b) motor vehicle waivers).[10]

In order to be consistent with section 209(a), California's nonroad standards and enforcement procedures must not apply to new motor vehicles or new motor vehicle engines. To be consistent with section 209(e)(1), California's nonroad standards and enforcement procedures must not attempt to regulate

[1] CARB's amended regulation is codified at California Code of Regulations (CCR), title 13, section 2477. EPA granted California a full authorization for the initial TRU regulation in 2009 (74 FR 3030 (January 16, 2009)). EPA confirmed California's 2010 amendments were within the scope of the initial TRU authorization in 2013 (78 FR 38970 (June 28, 2013)).

[2] The 2011 TRU Amendments also provide an extension of applicable compliance dates should compliant technology not be available.

[3] For a complete description of CARB's amended TRU regulation and the provisions which CARB seeks EPA's authorization see CARB's incoming request to EPA (and accompanying documents) submitted to the public docket at EPA–HQ–OAR–2015–0224.

[4] These new exemptions are listed in section II G of CARB's authorization request, EPA–HQ–OAR–2015–0224–0002 at p. 12–13.

[5] These amendments to the TRU accompanying enforcement procedures are listed in CARB's authorization request, EPA–HQ–OAR–2015–0244–0002 at p. 24.

[6] These amendments to the TRU accompanying enforcement procedures are listed in CARB's authorization request, EPA–HQ–OAR–2015–0224–0002 at p. 25.

[7] EPA's review of California regulations under section 209 is not a broad review of the reasonableness of the regulations or its compatibility with all other laws. Sections 209(b) and 209(e) of the Clean Air Act limit EPA's authority to deny California requests for waivers and authorizations to the three criteria listed therein. As a result, EPA has consistently refrained from denying California's requests for waivers and authorizations based on any other criteria. In instances where the U.S. Court of Appeals has reviewed EPA decisions declining to deny waiver requests based on criteria not found in section 209(b), the Court has upheld and agreed with EPA's determination. *See Motor and Equipment Manufacturers Ass'n* v. *Nichols,* 142 F.3d 449, 462–63, 466–67 (D.C. Cir.1998), *Motor and Equipment Manufacturers Ass'n* v. *EPA,* 627 F.2d 1095, 1111, 1114–20 (D.C. Cir. 1979). *See also* 78 FR 58090, 58120 (September 20, 2013).

[8] 59 FR 36969 (July 20, 1994).

[9] 62 FR 67733 (December 30, 1997). The applicable regulations, now in 40 CFR part 1074, subpart B, § 1074.105, provide:

(a) The Administrator will grant the authorization if California determines that its standards will be, in the aggregate, at least as protective of public health and welfare as otherwise applicable federal standards.

(b) The authorization will not be granted if the Administrator finds that any of the following are true:

(1) California's determination is arbitrary and capricious.

(2) California does not need such standards to meet compelling and extraordinary conditions.

(3) The California standards and accompanying enforcement procedures are not consistent with section 209 of the Act.

(c) In considering any request to authorize California to adopt or enforce standards or other requirements relating to the control of emissions from new nonroad spark-ignition engines smaller than 50 horsepower, the Administrator will give appropriate consideration to safety factors (including the potential increased risk of burn or fire) associated with compliance with the California standard.

[10] 59 FR 36969 (July 20, 1994).

engine categories that are permanently preempted from state regulation. To determine consistency with section 209(b)(1)(C), EPA typically reviews nonroad authorization requests under the same ''consistency'' criteria that are applied to motor vehicle waiver requests. Pursuant to section 209(b)(1)(C), the Administrator shall not grant California a motor vehicle waiver if she finds that California ''standards and accompanying enforcement procedures are not consistent with [section 202(a)]'' of the Act. Previous decisions granting waivers and authorizations have noted that state standards and enforcement procedures are inconsistent with section 202(a) if: (1) There is inadequate lead time to permit the development of the necessary technology giving appropriate consideration to the cost of compliance within that time, or (2) the federal and state testing procedures impose inconsistent certification requirements.[11]

If California amends regulations that EPA has already authorized, California can seek EPA confirmation that the amendments are within the scope of the previous authorization. A within-the-scope confirmation, without a full authorization review, is permissible if three conditions are met.[12] First, the amended regulations must not undermine California's determination that its standards, in the aggregate, are as protective of public health and welfare as applicable federal standards. Second, the amended regulations must not affect consistency with section 202(a) of the Act. Third, the amended regulations must not raise any ''new issues'' affecting EPA's prior authorizations.

In considering whether to grant authorizations for accompanying enforcement procedures tied to standards for which an authorization has already been granted, EPA addresses questions as to whether the enforcement procedures undermine California's determination that its standards are as protective of public health and welfare as applicable federal standards, and whether the enforcement procedures are consistent with section 202(a).[13]

## III. EPA's Request for Comments

As stated above, EPA is offering the opportunity for a public hearing, and is requesting written comment on issues relevant to a within-the-scope analysis and a full authorization analysis. Specifically, we request comment on whether the 2011 Amendments (1) undermine California's previous determination that its standards, in the aggregate, are at least as protective of public health and welfare as comparable federal standards; (2) affect the consistency of California's requirements with section 209 of the Act; or (3) raise any other new issues affecting EPA's previous waiver or authorization determinations.

Should any party believe that the amendments are not within the scope of the previous authorizations, EPA also requests comment on whether the 2011 Amendments meet the criteria for a full authorization. Specifically, we request comment on: (a) Whether CARB's determination that its standards, in the aggregate, are at least as protective of public health and welfare as applicable federal standards is arbitrary and capricious; (b) whether California needs such standards to meet compelling and extraordinary conditions; and (c) whether California's standards and accompanying enforcement procedures are consistent with section 209 of the Act.

## IV. Procedures for Public Participation

If a hearing is held, the Agency will make a verbatim record of the proceedings. Interested parties may arrange with the reporter at the hearing to obtain a copy of the transcript at their own expense. Regardless of whether a public hearing is held, EPA will keep the record open until February 8, 2016. Upon expiration of the comment period, the Administrator will render a decision on CARB's request based on the record from the public hearing, if any, all relevant written submissions, and other information that she deems pertinent. All information will be available for inspection at the EPA Air Docket No. EPA–HQ–OAR–2015–0224.

Persons with comments containing proprietary information must distinguish such information from other comments to the greatest extent possible and label it as ''Confidential Business Information'' (CBI). If a person making comments wants EPA to base its decision on a submission labeled as CBI, then a non-confidential version of the document that summarizes the key data or information should be submitted to the public docket. To ensure that proprietary information is not inadvertently placed in the public docket, submissions containing such information should be sent directly to the contact person listed above and not to the public docket. Information covered by a claim of confidentiality will be disclosed by EPA only to the extent allowed, and according to the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies the submission when EPA receives it, EPA will make it available to the public without further notice to the person making comments.

Dated: November 9, 2015.

**Christopher Grundler,**

*Director, Office of Transportation and Air Quality, Office of Air and Radiation.*

[FR Doc. 2015–29368 Filed 11–16–15; 8:45 am]

BILLING CODE 6560–50–P

[11] *Id. See also* 78 FR 58090, 58092 (September 20, 2013).

[12] *See* 78 FR 38970, 38972 (June 28, 2013).

[13] *See* CAA section 209(e)(2)(A)(i) and (iii), 42 U.S.C. 7543(e)(2)(A) (i) and (iii).

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## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–9937–19–OECA]**

## National Environmental Justice Advisory Council; Notification of Public Teleconference Meetings and Public Comment

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

**ACTION:** Notice.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act (FACA), Public Law 92–463, the U.S. Environmental Protection Agency (EPA) hereby provides notice that the National Environmental Justice Advisory Council (NEJAC) will host a two (2) public teleconference meetings on Wednesday, December 2, 2015, from 12:30 p.m. to 2:30 p.m. Eastern Time and Tuesday, December 15, 2015, from 3:30 p.m. to 5:30 p.m. Eastern Time. Items to be discussed by NEJAC over these coming meetings include respectively: U.S. Housing and Urban Development Final Rule on Affirmatively Furthering Fair Housing and Assessment Tool; and Chemical Plant Safety and Community Revitalization: 20 Years of the Brownfields Program.

There will be an opportunity for the public to comment on Wednesday, December 2, 2015, from 1:30 p.m. to 2:30 p.m. and Tuesday, December 15, 2015 from 4:30 p.m. to 5:30 p.m. Members of the public are encouraged to provide comments relevant to the topics of the meeting.

For additional information about registering to attend the meeting or to provide public comment, please see ''REGISTRATION'' under **SUPPLEMENTARY INFORMATION**.

**DATES:** The NEJAC teleconference meeting on Wednesday, December 2, 2015, will begin promptly at 12:30 p.m. Eastern Time. The NEJAC teleconference meeting on Tuesday,

December 15, 2015, will begin promptly at 3:30 p.m. Eastern Time.

**FOR FURTHER INFORMATION CONTACT:** Questions or correspondence concerning the teleconference meeting should be directed to Karen L. Martin, U.S. Environmental Protection Agency, by mail at 1200 Pennsylvania Avenue NW. (MC2201A), Washington, DC 20460; by telephone at 202–564–0203; via email at *martin.karenl@epa.gov;* or by fax at 202–564–1624. Additional information about the NEJAC is available at: *www.epa.gov/environmentaljustice/nejac.*

**SUPPLEMENTARY INFORMATION:**

## Registration

Registrations for the December 2, 2015, meeting will be processed at *http://nejac-teleconfence-december-2-2015.eventbrite.com.* When registering, please provide your name, organization, city and state, email address, and telephone number for follow up. Please also state whether you would like to be put on the list to provide public comment, and whether you are submitting written comments before the Wednesday, November 25, 2015, noon deadline.

Registrations for the December 15, 2015, meeting will be processed at *http://nejac-teleconference-december-15-2015.eventbrite.com.* When registering, please provide your name, organization, city and state, email address, and telephone number for follow up. Please also state whether you would like to be put on the list to provide public comment, and whether you are submitting written comments before the Thursday, December 11, 2015, noon deadline.

Due to a limited number of telephone lines, attendance will be on a first-come, first served basis. Pre-registration is required.

1. Registration for the December 2, 2015, teleconference meeting closes at Noon, Eastern Time on Wednesday, November 25, 2015. The deadline to sign up to speak during the public comment period, or to submit written public comments, is also Noon, Wednesday, November 25, 2015.

2. Registration for the December 15, 2015, teleconference meeting closes at Noon, Eastern Time on Thursday, December 10, 2015. The deadline to sign up to speak during the public comment period, or to submit written public comments, is also Noon, Thursday, December 10, 2015.

The Charter of the NEJAC states that the advisory committee ''will provide independent advice and recommendations to the Administrator about broad, crosscutting issues related to environmental justice. The NEJAC's efforts will include evaluation of a broad range of strategic, scientific, technological, regulatory, community engagement and economic issues related to environmental justice.''

### *A. Public Comment*

Individuals or groups making remarks during the public comment period will be limited to seven (7) minutes. To accommodate the number of people who want to address the NEJAC, only one representative of a particular community, organization, or group will be allowed to speak. Written comments can also be submitted for the record. The suggested format for individuals providing public comments is as follows: Name of speaker; name of organization/community; city and state; and email address; brief description of the concern, and what you want the NEJAC to advise EPA to do. Written comments received by registration deadline, will be included in the materials distributed to the NEJAC prior to the teleconference. Written comments received after that time will be provided to the NEJAC as time allows. All written comments should be sent to Karen L. Martin, EPA, via email at *martin.karenl@epa.gov.*

### *B. Information About Services for Individuals With Disabilities or Requiring English Language Translation Assistance*

For information about access or services for individuals requiring assistance, please contact Karen L. Martin, at (202) 564–0203 or via email at *martin.karenl@epa.gov.* To request special accommodations for a disability or other assistance, please submit your request at least four working days prior to the meeting, to give EPA sufficient time to process your request. All requests should be sent to the address, email, or phone/fax number listed in the **FOR FURTHER INFORMATION CONTACT** section.

Dated: November 10, 2015.

**Matthew Tejada,**

*Designated Federal Officer, Office of Environmental Justice, U.S. EPA.*

[FR Doc. 2015–29349 Filed 11–16–15; 8:45 am]

BILLING CODE 6560–50–P

## FEDERAL COMMUNICATIONS COMMISSION

**[OMB 3060–0027]**

## Information Collection Being Reviewed by the Federal Communications Commission

**AGENCY:** Federal Communications Commission.

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

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**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

**DATES:** Written PRA comments should be submitted on or before January 19, 2016. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

**FOR FURTHER INFORMATION CONTACT:** For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

**SUPPLEMENTARY INFORMATION:**

*OMB Control No.:* 3060–0027.

*Title:* Application for Construction Permit for Commercial Broadcast

Station, FCC Form 301; FCC Form 2100, Application for Media Bureau Audio and Video Service Authorization, Schedule A; 47 C.F.R section 73.3700(b)(1) and (2), Post Auction Licensing.

*Form No.:* FCC Form 2100, Schedule A.

*Type of Review:* Revision of a currently approved information collection.

*Respondents:* Business or other for-profit entities; Not for profit institutions; State, local or Tribal Government.

*Number of Respondents and Responses:* 3,080 respondents and 6,516 responses.

*Estimated Time per Response:* 1–6.25 hours.

*Frequency of Response:* One-time reporting requirement; On occasion reporting requirement; Third party disclosure requirement.

*Obligation to Respond:* Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 154(i), 303 and 308 of the Communications Act of 1934, as amended.

*Total Annual Burden:* 15,287 hours.

*Annual Cost Burden:* $62,775,788.

*Privacy Act Impact Assessment:* No impact(s).

*Nature and Extent of Confidentiality:* There is no need for confidentiality with this collection of information.

*Needs and Uses:* The collection is being made to the Office of Management (OMB) for the approval of information collection requirements contained in the Commission's Incentive Auction Order, FCC 14–50, which adopted rules for holding an Incentive Auction, as required by the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act). The information gathered in this collection will be used to allow full-power television broadcast stations that are relocated to a new channel following the Federal Communications Commission's Incentive Auction to submit a construction application to build new facilities to operate on their post-auction channel. Form 2100, Schedule A is also used to apply for authority to construct a new commercial AM, FM, or TV broadcast station and to make changes to existing facilities of such a station.

Federal Communications Commission.

**Gloria J. Miles,**

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[FR Doc. 2015–29238 Filed 11–16–15; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL RESERVE SYSTEM

### Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

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

**SUMMARY:** Notice is hereby given of the final approval of a proposed information collection by the Board of Governors of the Federal Reserve System (Board) under Office of Management and Budget (OMB) delegated authority. 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 statement and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve 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.

**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.

*Final approval under OMB delegated authority of the extension for three years, with revision, of the following information collection:*

*Report titles:* The Complex Institution Liquidity Monitoring Report (FR 2052a) and the Liquidity Monitoring Report (FR 2052b).

*Agency form numbers:* FR 2052a and FR 2052b.

*OMB control number:* 7100–0361.

*Frequency:* FR 2052a: Daily or monthly; FR 2052b: quarterly.

*Respondents:*

- FR 2052a: Bank holding companies and savings and loan holding companies subject to the liquidity coverage ratio (together, U.S. firms) with total assets of $700 billion or more or with $10 trillion or more in assets under custody; U.S. firms with total assets of less than $700 billion and with assets under custody of less than $10 trillion, but total assets of $250 billion or more or foreign exposure of $10 billion or more; U.S. firms with total assets of $50 billion or more but total assets of less than $250 billion and foreign exposure of less than $10 billion; Foreign banking organizations (FBOs) that are identified as LISCC firms; FBOs with U.S. assets of $250 billion or more that are not identified as LISCC firms; and FBOs with U.S. assets of $50 billion or more but U.S. assets less than $250 billion that are not identified as LISCC firms.
- FR 2052b: U.S. bank holding companies (BHCs) not controlled by FBOs with total consolidated assets of $10 billion or more but less than $50 billion

*Estimated annual reporting hours:* FR 2052a: 714,480 hours; FR 2052b: 12,480 hours.[1]

*Estimated average hours per response:* FR 2052a: ranges between 120 hours and 400 hours; FR 2052b: 60 hours.

*Number of respondents:* FR 2052a: 48; FR 2052b: 52.

*General description of report:* These reports are authorized pursuant to section 5 of the Bank Holding Company Act (12 U.S.C. 1844), section 8 of the International Banking Act (12 U.S.C. 3106) and section 165 of the Dodd-Frank Act (12 U.S.C. 5365) and are mandatory, with voluntary early reporting on FR 2052a for U.S. firms with total consolidated assets of $700 billion or more or with assets under custody of $10 trillion or more, and FBOs identified as LISCC firms. Section 5(c) of the Bank Holding Company Act authorizes the Board to require BHCs to submit reports to the Board regarding their financial condition. Section 8(a) of the International Banking Act subjects FBOs to the provisions of the Bank Holding Company Act. Section 165 of the Dodd-Frank Act requires the Board to establish prudential standards for certain BHCs and FBOs; these standards include liquidity requirements. The individual financial institution information provided by each respondent will be accorded confidential treatment under exemption 8 of the Freedom of Information Act (5 U.S.C. 552(b)(8)). In addition, the institution information provided by each respondent will not be otherwise available to the public and is entitled to confidential treatment under the authority of exemption 4 of the Freedom of Information Act (5 U.S.C. 552(b)(4)),

[1] With the proposed revisions, the paperwork burden for 2015 is estimated to initially decrease, then incrementally increase for 2016, 2017, and 2018, for an annual net increase of 266,480 hours.

which protects from disclosure trade secrets and commercial or financial information.

*Abstract:* The FR 2052 reports are used to monitor the overall liquidity profile of institutions supervised by the Federal Reserve. These data provide detailed information on the liquidity risks within different business lines (*e.g.,* financing of securities positions, prime brokerage activities). In particular, these data serve as part of the Federal Reserve's supervisory surveillance program in its liquidity risk management area and provide timely information on firm-specific liquidity risks during periods of stress. Analysis of systemic and idiosyncratic liquidity risk issues are then used to inform the Federal Reserve's supervisory processes, including the preparation of analytical reports that detail funding vulnerabilities. Additionally, FR 2052a will allow the Federal Reserve to monitor compliance with the liquidity coverage ratio.

*Current Actions:* On December 2, 2014, the Federal Reserve published a notice in the **Federal Register** (79 FR 71416) requesting public comment for 60 days on the extension, with revision, of the FR 2052a and FR 2052b. The comment period for this notice expired on February 2, 2015. The Federal Reserve received eight comment letters on the proposed revisions to the FR 2052 reports: Two from trade associations, five from U.S. banking organizations, and one from an FBO. In addition, the Federal Reserve held several meetings with banks and trade associations. In general, the comments focused on scope of application, transition periods, timing of data submission, tailoring of the requirements to certain institutions, application to firms subject to the modified LCR, application to nonbank financial companies supervised by the Federal Reserve, availability of a template and mapping document, and other changes. The comments and responses are discussed in detail below. In addition, the Federal Reserve has revised the proposed reporting formats and instructions, as appropriate, in response to the technical comments received.

## Detailed Discussion of Public Comments

### *Initially Proposed FR 2052a and FR 2052b Revisions*

The Federal Reserve initially proposed to revise the FR 2052a report by: (1) Modifying the firms that are required to respond, the applicable asset threshold, and frequency of reporting; (2) including a data structure that subdivides three general categories of inflows, outflows, and supplemental items into 10 distinct data tables; (3) requiring all U.S. firms with total assets of $250 billion or more or foreign exposure of $10 billion or more and all FBOs with total U.S. assets of $50 billion or more to report liquidity profiles by major currency for each material entity of the reporting institution; (4) collecting more detail regarding securities financing transactions, wholesale unsecured funding, deposits, loans, unfunded commitments, collateral, derivatives, and foreign exchange transactions; and (5) changing the structure of the collection to an XML format from a spreadsheet format.

The Federal Reserve also initially proposed to revise the FR 2052b reporting panel by modifying the firms that are required to respond and the applicable threshold, and eliminating monthly reporting.

### *Initially Proposed Reporting Panel and Frequency of Submissions* [2]

The scope of application, frequency, submission dates, and timing of submission that were initially proposed are shown in the following table.

| Report No. | Reporter description | Frequency | First as-of date | First submission date [3] | Timing of submission |
|---|---|---|---|---|---|
| FR 2052a | U.S. firms [4] with total assets ≥$700 billion or with assets under custody of ≥$10 trillion. | Monthly<br>Daily | [5] 03/31/2015<br>07/01/2015 | 04/02/2015<br>07/03/2015 | T+2<br>T+2 |
| FR 2052a | U.S. firms with total assets <$700 billion and with assets under custody of <$10 trillion but, total assets ≥$250 billion or foreign exposure ≥$10 billion. | Monthly<br>Daily | [6] 07/31/2015<br>07/01/2016 | 08/02/2015<br>07/03/2016 | T+2<br>T+2 |
| FR 2052a [7] | U.S. firms with total assets ≥$50 billion but, total assets <$250 billion and foreign exposure <$10 billion. | Monthly | 01/31/2016 | 02/02/2016 | T+2 |
| FR 2052a | FBOs with U.S. assets ≥$50 billion and U.S. broker-dealer assets ≥$100 billion. | Monthly<br>Daily | 03/31/2015<br>07/01/2015 | 04/02/2015<br>07/03/2015 | T+2<br>T+2 |
| FR 2052a | FBOs with U.S. assets ≥$50 billion and U.S. broker-dealer assets <$100 billion. | Monthly<br>Monthly [8] | 01/31/2016<br>07/31/2016 | 02/02/2016<br>08/02/2016 | T+2<br>T+2 |
| FR 2052b [9] | U.S. BHCs (not controlled by FBOs) with total consolidated assets of between $10 billion and $50 billion. | Quarterly | 12/31/2014 | 01/15/2015 | T+15 |

[2] SLHCs not subject to the LCR would not have been subject to these reporting requirements. However, the initial proposal noted that through future rulemakings these institutions may be subject to some form of liquidity monitoring.

[3] For U.S. bank holidays and weekends, no positions would have been reported. For data that would have been reported by entities in international locations, if there were to be a local bank holiday, those entities would have submitted data using the data from the previous business day.

[4] U.S. firms would have included nonbank financial companies that the Financial Stability Oversight Council has determined under section 113 of the Dodd-Frank (12 U.S.C. 5323) shall be supervised by the Federal Reserve and for which such determination is still in effect, where the Federal Reserve has applied the requirements of the liquidity coverage ratio to such company by rule or order.

[5] These firms would have complied with the transitions set forth in the LCR, which requires an LCR calculation monthly starting in January 2015. However, these firms would not have needed to report on the FR 2052a until this reporting as-of date.

[6] These firms would have complied with the transitions set forth in the LCR, which requires an LCR calculation monthly starting in January 2015. However, these firms would not have needed to report on the FR 2052a until this reporting as-of date.

[7] The frequency of the FR 2052a monthly report could have been temporarily adjusted to daily on a case-by-case basis as market conditions and supervisory needs changed to carry out effective continuous liquidity monitoring. The Federal Reserve anticipated frequency adjustments to be a rare occurrence.

[8] These FBOs would have been required to have the ability to report on each business day. If the FBO were consolidating a U.S. firm that would independently have to report daily, then the FBO would have had to report daily. The Federal Reserve would have tested these FBOs for their ability to report daily.

[9] FR 2052b reporting requirements would not have changed for U.S. BHCs (not controlled by FBOs) with total consolidated assets of between $10 billion and $50 billion, so the frequency and as-of date would have been the same as it had been.

For purposes of the FR 2052 reports, a U.S. firm is a top-tier bank holding company (BHC), as that term is defined in section 2(a) of the Bank Holding Company Act (12 U.S.C. 1841(a)) and section 225.2(c) of the Federal Reserve's Regulation Y (12 CFR 225.2(c)), organized under the laws of the United States and excludes any bank holding company that is a subsidiary of a foreign banking organization (FBO). For the purposes of the FR 2052 reports, foreign banking organization has the same meaning as in section 211.21(o) of the Federal Reserve's Regulation K (12 CFR 211.21(o)) and includes any U.S. bank holding company that is a subsidiary of an FBO. The FR 2052b report only applies to U.S. BHCs with total consolidated assets of between $10 billion and $50 billion that are not controlled by FBOs.

*Scope of Application*

The Federal Reserve has modified the scope of application for the FR 2052a from the proposal, which is set forth in the table above. These changes will not add additional burden on any firm based on the proposed scope of application, and in some cases the changes may result in less burden. Regarding the changes, the Federal Reserve will accord U.S. firms and FBOs of similar size the same treatment because similarly situated firms should be treated in a similar manner. Second, the Federal Reserve will implement three categories of treatment for both U.S. firms and FBOs, according to the asset size of the firm and whether it has been identified as a LISCC firm.[10] Firms in the first category, U.S. firms with total consolidated assets of $700 billion or more or with assets under custody of $10 trillion or more, and FBOs identified as LISCC firms, will be required to submit the FR 2052a daily. Firms in the second category will be U.S. firms with total assets less than $700 billion and assets under custody less than $10 trillion, but total assets greater than or equal to $250 billion or foreign exposure greater than or equal to $10 billion, and FBOs with U.S. assets greater than or equal to $250 billion that have not been identified as LISCC firms. Firms in the second category will be required to submit the FR 2052a monthly. Firms in the third category will be U.S. firms with total assets less than $250 billion and foreign exposure less than $10 billion, but total assets greater than or equal to $50 billion, and FBOs with U.S. assets greater than or equal to $50 billion but less than $250 billion that are not identified as LISCC firms. Firms in the third category will be required to submit the FR 2052a monthly and will be granted additional time to submit the report.

As discussed further below, nonbank financial companies designated by the Financial Stability Oversight Council (FSOC) are not included in the reporting panel for the FR 2052a.

Firms whose asset sizes or identification as a LISCC firm causes them to cross the threshold from the third category to the second category, or from the second category to the first category, will be required to meet the applicable reporting requirements of the new category within three months of crossing the threshold. A firm whose asset size causes it to cross the threshold to the third category will have to meet the applicable reporting requirements within one year of crossing the threshold.

In addition to these changes, the Federal Reserve will consider future enhancements to the thresholds that define the applicability of the reporting requirements that are more sensitive to liquidity risk. Any future enhancements would be proposed and subject to comment, and if finalized, firms whose reporting requirements change based on those enhancements would be provided sufficient time to comply.

*Transition Period*

Some commenters raised concerns about whether the proposed implementation schedule would allow sufficient time to implement reporting requirements. One commenter noted that banking organizations with less than $700 billion in assets and firms subject to the modified LCR methodology by the liquidity coverage ratio in the United States, finalized in September 2014 (LCR rule)[11] should not be required to report monthly on the FR 2052a before July 1, 2016. According to the commenter, the proposed timeline would divert resources from efforts to ensure daily LCR compliance by July 1, 2016, and potentially put those efforts at risk. This commenter asserted that monthly reporting on the FR 2052a cannot be equated to the monthly LCR calculations starting in July 2015 because the FR 2052a is much more granular than is necessary to compute the LCR and suggested that because FR 2052a reporting is more akin to the daily LCR calculation, it should be on the same timeline. The commenter also noted that for the same reasons and due to their smaller size, firms subject to the modified LCR methodology should not be required to submit reports until July 2016.

Other commenters noted that banks that were not required to report on the prior versions of the FR 2052a report should be provided more time to comply and suggested that these organizations not be required to comply with FR 2052a reporting until July 2016, January 2017, or July 2017, to allow sufficient time to enhance IT and other systems. A commenter pointed out that even if an extension was provided, these firms could continue to report on the FR 2052b in the interim.

Similarly, one FBO commenter noted that implementing the proposed FR 2052a with its more granular and expanded data requirements would require considerable resources and operational effort to comply by February 2, 2016 for certain entities that were not required to report on the prior versions of the FR 2052a report. The commenter noted that G–SIBs were given a two-year lead time prior to the implementation of the FR 2052a reporting requirements and it would be appropriate for current FR 2052b filers and new FR 2052a filers to receive similar lead time.

One commenter noted that the implementation schedule for FBOs with U.S. assets of $50 billion or greater and U.S. broker-dealer assets of less than $100 billion is unrealistic. The commenter noted that reporting challenges are magnified for FBOs that have not previously had the experience of filing the FR 2052a or FR 2052b. The commenter further noted that many of these firms are working to come into compliance with the Federal Reserve Board's intermediate holding company (IHC) requirement by July 2016. The commenter suggested that new FBO filers start with the FR 2052b report before moving to the FR 2052a report, with implementation dates of July 2016 for the FR 2052b and July 2017 for the FR 2052a. The commenter also noted that the LCR rule does not apply to many of these firms and that for FR 2052b FBO filers, no further requirement should be applied until the IHC requirements are clarified and there is an LCR rule in place for FBOs.

Another commenter requested that firms forming IHCs have a reasonable transition time for reporting on a consolidated basis and legal entity basis and that entities required to consolidate pursuant to the IHC requirement, effective July 2016, should not be required to report on the FR 2052a beforehand.

Based on comments and analysis of the transitions and effective dates, the Federal Reserve has extended the

[10] A list of the LISCC firms can be found at *http://www.federalreserve.gov/bankinforeg/large-institution-supervision.htm.*

[11] 79 FR 61440 (October 10, 2014).

effective dates for firms to provide more time for them to complete the necessary system builds. The table below sets forth the revised transitions and effective dates for the FR 2052a. The effective date for the FR 2052b remains unchanged, which is also set forth in the table below. Further, for the FR 2052a filers, the Federal Reserve will require monthly submissions for all firms that are not U.S. firms with total assets of $700 billion or more or with assets under custody of $10 trillion or more, and FBOs identified as LISCC firms. For firms that submit monthly reports, consistent with current supervisory authority and processes, during periods of stress the Federal Reserve may temporarily request the FR 2052a liquidity data to be filed on a more frequent basis.

In addition, for U.S. firms with total consolidated assets of $700 billion or more or with assets under custody of $10 trillion or more, and FBOs identified as LISCC firms, the Federal Reserve will collect data as of November 30, 2015 with a request for submission on December 2, 2015. Responses to this one-time information collection are voluntary.

*Timing of Data Submission*

The Federal Reserve received several comments related to the amount of time needed to prepare reports for submission. Most commenters disagreed with the proposal's requirement that reporting forms be submitted within two days of the as-of date. One commenter noted that the two-day lag does not provide enough time for quality assurance necessary for a regulatory report. In addition, some commenters expressed concern that the two-day lag is practically only 1.5 days because the proposed submission time is noon. One commenter specifically requested that advanced approaches firms with $700 billion or more in assets be given a full two-day reporting window.

Other commenters stated that 15 days is an appropriate time period for firms that would have been required to report monthly and for firms that are currently reporting on the FR 2052b. One commenter suggested a five-day lag for regional banks subject to the full LCR. Another commenter offered that advanced approaches firms with less than $700 billion in assets and new FBO filers should have five days to submit the reports.

As illustrated in the table below, the Federal Reserve will implement the following transition periods for the timing of the data submission. All firms subject to FR 2052a reporting requirements, except for U.S. firms with total assets of $700 billion or more or with assets under custody of $10 trillion or more, and FBOs identified as LISCC firms, will have a T+15 submission requirement at their first effective date. Subsequently, the timing of the submission will be reduced until it reaches the final timing of submission requirement. Because of the importance of timely liquidity data for the largest firms, the final timing of submission will remain T+2 days. However, for U.S. firms with total assets of $50 billion or more, but less than $250 billion and foreign exposure of less than $10 billion, and FBOs with U.S. assets of $50 billion or more and less than $250 billion that are not identified as LISCC firms, the final timing of submission requirement will be T+10 days due to these firms' smaller contributions to systemic risk. Additionally, for all FR 2052a filers, as set forth in the instructions, the Federal Reserve will change the submission time on the submission date to 3:00 p.m. ET, which will provide firms additional time to prepare the data submissions. The T+15 timing of submission requirement for the FR 2052b will remain unchanged.

*Final Reporting Panel and Frequency of Submissions* [12]

The Federal Reserve has modified the scope of application, frequency, submission dates, and timing of submission as shown in the following table in response to public comments.

| Report No. | Reporter description | Frequency | First as-of date | First submission date [13] | Timing of submission |
|---|---|---|---|---|---|
| FR 2052a | • U.S. firms with total assets ≥$700 billion or with ≥$10 trillion in assets under custody, and.<br>• FBOs identified as LISCC firms | Daily | [14] 12/14/2015 | 12/16/2015 | T+2 |
| FR 2052a | • U.S. firms with total assets <$700 billion and with <$10 trillion in assets under custody, but total assets ≥$250 billion or foreign exposure ≥$10 billion, and. | Monthly | [15] 01/31/2017 | 02/15/2017 | T+15 |
| | • FBOs that are not identified as LISCC firms, but with U.S. assets ≥$250 billion. | Monthly [16] | 07/31/2017 | 08/02/2017 | T+2 |
| FR 2052a | • U.S. firms with total assets ≥$50 billion, but total assets <$250 billion and foreign exposure <$10 billion, and. | Monthly | 07/31/2017 | 08/15/2017 | T+15 |
| | • FBOs that are not identified as LISCC firms and with U.S. assets <$250 billion, but U.S. assets ≥$50 billion. | Monthly [17] | 01/31/2018 | 02/10/2018 | T+10 |
| FR 2052b [18] | • U.S. BHCs (not controlled by FBOs) with total consolidated assets of between $10 billion and $50 billion. | Quarterly | 12/31/2015 | 01/15/2016 | T+15 |

[12] SLHCs that are not subject to the LCR are not subject to these reporting requirements; however, through future rulemakings these institutions may be required to participate in some form of liquidity monitoring. Nonbank financial companies designated for Federal Reserve supervision by FSOC under section 113 of the Dodd-Frank Act (12 U.S.C. 5323), to which the Federal Reserve has applied the requirements of the liquidity coverage ratio by rule or order are not subject to these reporting requirements unless included in the rule or order.

[13] For U.S. bank holidays and weekends, no positions should be reported. For data reported by entities in international locations, if there is a local bank holiday, submit data for those entities using the data from the previous business day.

[14] These firms must comply with the transitions set forth in the LCR. However, these firms do not need to report on the FR 2052a until this reporting as-of date.

[15] These firms must comply with the transitions set forth in the LCR, which requires an LCR calculation monthly starting in January 2015. However, these firms do not need to report on the FR 2052a until this reporting as-of date.

[16] Consistent with current supervisory authority and processes, during periods of stress the Federal Reserve may temporarily request the FR 2052a liquidity data on a more frequent basis.

[17] Consistent with current supervisory authority and processes, during periods of stress the Federal Reserve may temporarily request the FR 2052a liquidity data on a more frequent basis.

[18] The FR 2052b will not change for U.S. BHCs (not controlled by FBOs) with total consolidated assets of between $10 billion and $50 billion, so the frequency and as-of date would be the same as it is currently.

*Tailoring*

One commenter noted that less complex financial institutions that are not internationally active should not be held to the same reporting standards as larger and much more complex financial institutions. Financial institutions that are less complex do not present significant risk to the financial system. Another commenter noted that the FR 2052a is not tailored to take into account the risk profile of the reporting firms. A few commenters disagreed with the requirement to provide specific maturity data for five years. These commenters argued that the data would not provide beneficial supervisory information. One of these commenters suggested that only payments within one year should be reported.

One commenter noted that disaggregating principal and interest payments would be burdensome to respondents and unhelpful for the Federal Reserve because this approach would not consider balance sheet growth or other behavioral assumptions. Two commenters commented on derivatives reporting. One noted that the granular derivatives details required by the proposal are not necessary for calculating the LCR, and implementing it for regional banks would be burdensome and unhelpful to the Federal Reserve. The other commenter noted that the granularity of derivative reporting for advanced approaches banking organizations with less than $700 billion in assets and modified LCR banking organizations should align with the LCR. The commenter asserted that the proposed requirement to segregate information about payables and receivables and provide the margin information in more granular detail than required by the LCR would impose tremendous burden on the collateral tracking systems of firms.

Another commenter stated that data elements related to broker-dealers are immaterial to regional banks and these banks should not be required to report them. The commenter stated that collecting that data would not be helpful to the Federal Reserve and would impose a burden on the banks.

The Federal Reserve received two comments on reporting by currency. One commenter stated that reporting by major currency for regional banks that are subject to the full LCR is unnecessary because their foreign activities are limited (more akin to firms subject to the modified LCR) and the LCR does not require it. The commenter stated that because current systems only record in USD, additional implementation burden would be imposed. Alternatively, the commenter suggested establishing a threshold for reporting by major currency other than USD only if the percent of foreign currency liabilities to total liabilities exceeded, for example, 5 percent. Another commenter suggested that the FR 2052a should incorporate thresholds for reporting by major currency that align with the Basel Committee on Banking Supervision's LCR standard's definition of ''significant currency,'' which is when the aggregated liabilities in that currency exceed 5 percent of total liabilities. The commenter explained that if this suggestion is followed, a firm should be required to meet the threshold for four quarters before being considered a significant currency to prevent a currency from toggling between significant and not significant.

The Federal Reserve notes that the FR 2052a was not designed solely for monitoring compliance with the LCR; rather, it is a supervisory liquidity report that also allows for monitoring compliance with the LCR. In the context of that supervisory purpose and based on an analysis of the reporting firms, the FR 2052a will be better tailored to the size and complexity of the firms. First, and as mentioned above, the timing of the data submission will be extended to T+10 days for the smaller firms subject to FR 2052a reporting requirements. In addition, the FR 2052a will be revised to have tailored data elements. The granularity of maturity data will be modified for firms subject to the FR 2052a that are not U.S. firms with total assets of $700 billion or more or with assets under custody of $10 trillion or more or FBOs identified as LISCC firms, with only the residual value of products reported beyond one year. The residual value data will be required because it is necessary to have sufficient information on the liquidity profile of the firm. For the smaller firms subject to the FR 2052a, certain products, such as unencumbered assets, inflows from traditional loans, and interest and dividends payable, will be reported according to Appendix IV–b of the instructions. Consistent with the instructions, these firms will be permitted to report these particular products with less granularity, even within one year.

The Federal Reserve views as inappropriate the elimination of reporting requirements related to broker-dealer activities for an entire segment of firms; however, where appropriate, certain products are tailored, as detailed in the instructions. For example, for derivatives collateral reporting, firms that do not meet a certain threshold may use a default sub-product. Additionally, the product for reporting interest payments may be ignored for amortizing products if the interest is aggregated with principal and reported in the product for principal amounts. Also, certain products which implicate inflows that are not part of the LCR calculation may be optionally ignored, such as sleeper collateral receivables and derivative collateral substitution capacity. There are also certain products that are specific to services provided by broker-dealers, so the FR 2052a will not require those specific products to be reported unless the firm has a significant broker-dealer.

Lastly, firms subject to FR 2052a requirements that historically have less foreign currency exposure will only have to report in USD and will not have to report data required by the F/X table. Thus, U.S. firms with total assets of less than $700 billion and with assets under custody of less than $10 trillion, but total assets of $50 billion or more and FBOs with U.S. assets of less than $250 billion, but U.S. assets of $50 billion or more that are not identified as LISCC firms may report solely in USD and will not have to report data required by the F/X table. All other firms subject to FR 2052a requirements will report in the major currencies listed in the instructions and report data required by the F/X table. The FR 2052b will continue to be reported solely in USD.

*Modified LCR*

The Federal Reserve received the following comments specific to reporting by institutions subject to the modified LCR: (1) The proposed FR 2052a report materially expands the required time period bucketing to include 60 days of daily contractual cash flows and four periods of weekly contractual cash flows requiring fundamental changes to data, systems, and processes that have already been developed to support the FR 2052a and LCR calculations that extract data based on monthly cash flows; (2) the 60-day daily period maturity buckets go beyond the 30-day period that is necessary to compute the LCR and daily time bucket should only be 30 days for firms subject to the full LCR and should not exist for firms subject to the modified LCR; (3) maturity buckets for firms subject to the modified LCR should have no more granularity than monthly, which is what is needed for the LCR; (4) daily maturity buckets for days 31–60 should be

phased in over time because systems have already been developed for the LCR's 30-day window; (5) the FR 2052a does not align with the modified LCR, requiring a parent-only report whereas a consolidated figure is required for the LCR; (6) firms subject to the modified LCR should be required to report only on the FR 2052b or an amended FR 2052b or the FR 2052a should be tailored to regional banks; and (7) required reporting for entities should be consistent with the requirements of the final LCR rule for modified LCR BHCs, *i.e.,* global consolidated entity only, since modifying systems to include other reporting levels pose a significant operational task because systems and processes were built to support the calculation at the global consolidated entity.

In response to the comments on the reporting requirements for firms subject to the modified LCR, as mentioned above, the Federal Reserve notes that the FR 2052a was not designed solely for monitoring compliance with the LCR; rather, it is a supervisory liquidity report that also allows for monitoring compliance with the LCR. For that reason, there are products and maturity buckets beyond what is necessary for an LCR calculation. All of the products and maturity buckets are required to appropriately monitor liquidity risk within a firm subject to the FR 2052a reporting requirement. For example, to understand a firm's liquidity risk profile, it is necessary to have information beyond the LCR's 30-day time horizon and on a parent-only basis, in addition to the consolidated holding company. However, as described above, for the smaller firms subject to the FR 2052a, the Federal Reserve will allow less granular maturity bucketing for certain products where receiving less maturity information is appropriate, such as unencumbered assets, inflows from traditional loans, and interest and dividends. Furthermore, as noted above, the Federal Reserve will extend the transitions and effective dates to provide sufficient time for system enhancements to meet the increased data requirements.

*Nonbank Financial Companies*

One commenter noted that nonbank financial companies designated by FSOC for supervision by the Board are implicated as covered in the FR 2052a update notice. The commenter requested that these companies have an opportunity to comment on the FR 2052a after being designated but before imposition of the LCR requirement and filing on the FR 2052a.

Non-bank financial companies designated by FSOC for supervision by the Federal Reserve will not be automatically subject to FR 2052a reporting requirements based on being subject to the LCR. Because these companies may become subject to the LCR by rule or order, the Federal Reserve believes it is appropriate to subject them to supervisory reporting requirements also by rule or order to ensure that such requirements are appropriate for the specific nonbank financial company.

*Availability of Template or Mapping Document*

The Federal Reserve proposed to require the data in XML format. Two commenters requested that the Federal Reserve make available an Excel template to facilitate internal review of the data submission.

In addition, the Federal Reserve requested comment on whether it should publish a description of how the FR 2052a data will be used to monitor LCR compliance. Several commenters agreed that the Federal Reserve should publish a description and specifically requested that the Federal Reserve should provide a reporting template that would illustrate how to calculate the reporting entity's LCR.

In response to comments, the Federal Reserve has revised the FR 2052a instructions to include an appendix that maps the provisions of the LCR to the unique data identifiers that can be used to calculate an LCR. The Federal Reserve will not provide an Excel or other template, as firms subject to FR 2052a reporting requirements may, based on the description of data tables in the instructions and the appendix describing an LCR calculation, develop their own MIS to analyze FR 2052a data. This mapping document is not a part of the LCR rule or a component of the FR 2052a report. Firms may use this mapping document solely at their discretion.

*Other Changes*

One commenter provided an appendix describing certain technical issues with the calculation of the LCR using FR 2052a data. The Federal Reserve has resolved these issues through the appendix to the instructions that describes an LCR calculation by mapping the LCR provisions to the FR 2052a data. Another commenter noted that ''material legal entity'' should be defined more clearly, as entities falling under the definition would be an additional reporting entity. The Federal Reserve revised the instructions to provide additional information about what constitutes a material entity. In addition, the Federal Reserve will implement a supervisory process to determine which entities are deemed material. As described in the instructions, the Federal Reserve will consider characteristics of the entity, such as size, complexity, business activities, and overall risk profile.

Another commenter noted that collateral value and collateral class fields should be better explained, in particular with respect to non-investment securities collateral, cross collateralization, and when collateral is all business assets. The Federal Reserve finalized as initially proposed because Appendix III to the instructions includes all collateral classes that are relevant for this report.

The proposal would have required firms submitting the FR 2052a report to retain data for six months. The Federal Reserve will require firms to retain that data for one year after it is submitted because the Federal Reserve believes that one year is an appropriate amount of data in the event a firm needs to review previously submitted data.

**Paperwork Reduction Act**

In accordance with section 3512 of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521), the Board may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. The OMB control number is 7100–0361. The Board reviewed the proposed information collection under authority delegated to the Board by OMB.

The FR 2052 reporting forms are a part of the Federal Reserve's supervisory surveillance program in liquidity risk management. The information collected on the FR 2052 reporting forms will provide timely information on firm-specific liquidity risks during periods of stress and will be used to monitor the overall liquidity profile of institutions supervised by the Federal Reserve. These data provide detailed information on the liquidity risks within different business lines of these firms. In addition the information collected on the FR 2052a will be used to monitor compliance with the LCR by firms subject to the rule. The Federal Reserve will use this data to identify and analyze systemic and idiosyncratic liquidity risk issues at reporting firms and across the financial system and will also prepare analytical reports that detail funding vulnerabilities at reporting firms.

The Board's collection of information on forms FR 2052a and FR 2052b is

mandatory, with voluntary early reporting on FR 2052a for U.S. firms with total consolidated assets of $700 billion or more or with assets under custody of $10 trillion or more, and FBOs identified as LISCC firms, and is authorized pursuant to section 5 of the Bank Holding Company Act (12 U.S.C. 1844), which authorizes the Federal Reserve to conduct information collections with regard to the supervision of BHCs, section 8 of the International Banking Act (12 U.S.C. 3106), which subjects FBOs to the provision of the Bank Holding Company Act, and section 165 of the Dodd-Frank Act (12 U.S.C. 5365), which requires the Federal Reserve to ensure that certain BHCs and nonbank financial companies supervised by the Federal Reserve are subject to enhanced liquidity requirements. As these data are collected as part of the supervisory process, they are subject to confidential treatment under exemption 8 of the Freedom of Information Act (5 U.S.C. 552(b)(8)). In addition, the institution information provided by each respondent will not be otherwise available to the public and is entitled to confidential treatment under the authority of exemption 4 of the Freedom of Information Act (5 U.S.C. 552(b)(4)), which protects from disclosure trade secrets and commercial or financial information.

The Board estimates that the burden of reporting on the revised FR 2052a will be between 120 and 400 hours per response for each reporting form. The Board estimates that the one-time implementation burden will be approximately 400 hours, which includes both the building of systems necessary to gather and report the data, as well as training of responsible staff. For firms that are required to report daily, the Board estimates that the burden for each response will be approximately 220 hours, while firms that required to report monthly will spend approximately 120 hours to prepare each response. The Board estimates that the burden of reporting on the revised FR 2052b will be approximately 60 hours per response for each reporting firm.

**Regulatory Flexibility Act**

The Board has considered the potential impact of the final rule on small companies in accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). Based on its analysis and for the reasons stated below, the Board believes that the final rule will not have a significant economic impact on a substantial number of small entities. Nevertheless, the Board is providing a final regulatory flexibility analysis with respect to the FR 2052 reporting forms.

Under regulations issued by the Small Business Administration, a small entity includes a depository institution, bank holding company, or savings and loan holding company with total assets of $550 million or less (a small banking organization). As discussed above, the information collected on the FR 2052 reporting forms will be used to monitor the overall liquidity profile of large banking organizations supervised by the Board. These forms would collect information on the liquidity risks within different lines of business of these organizations. Firms would be required to report either daily, monthly, or quarterly depending on their size and complexity. The Board did not receive any comments on the proposed information collection notice regarding its impact on small banking organizations.

The FR 2052 reporting forms will apply to BHCs with total consolidated assets of $10 billion or more and to FBOs with U.S. assets of $50 billion or more. The FR 2052 reporting forms do not apply to small banking organizations, so there would be no projected compliance requirements for small banking organizations.

The Board believes that the final information collection will not have a significant impact on small banking organizations supervised by the Board and therefore believes that there are no significant alternatives that would reduce the economic impact on small banking organizations supervised by the Board.

Board of Governors of the Federal Reserve System, November 12, 2015.

**Robert deV. Frierson,**

*Secretary of the Board.*

[FR Doc. 2015–29348 Filed 11–16–15; 8:45 am]

BILLING CODE 6210–01–P

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (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 2, 2015.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *Edgar Ray Smith, III, William Kent Hood, Savannah K. Conti, William K. Conti, Amite Mini Storage, LLC, Hood Investments, LLC, WKH Management, Inc., Smith and Hood Investments, LLC, all of Amite, Louisiana; Sophia M. Pray, Hudson M. Pray, both of Hammond, Louisiana; Big 4 Investments, LLC,* Roseland, Louisiana; to retain voting shares of First Guaranty Bancshares, Inc., and thereby indirectly retain voting shares of First Guaranty Bank, both in Hammond, Louisiana.

2. *Donald Joseph Leeper,* Adairsville, Georgia; to acquire voting shares of NorthSide Bancshares, Inc., and thereby indirectly acquire voting shares of NorthSide Bank, both in Adairsville, Georgia.

B. Federal Reserve Bank of St. Louis (Yvonne Sparks, Community Development Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *John M. Huetsch, individually and as trustee of the John O. Huetsch Trust u/a dated 1/31/2012,* both of Waterloo, Illinois; to retain voting shares of SBW Bancshares, Inc., and thereby indirectly retain voting shares of State Bank of Waterloo, both in Waterloo, Illinois.

Board of Governors of the Federal Reserve System, November 12, 2015.

**Michael J. Lewandowski,**

*Associate Secretary of the Board.*

[FR Doc. 2015–29298 Filed 11–16–15; 8:45 am]

BILLING CODE 6210–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Board of Scientific Counselors, Office of Public Health Preparedness and Response: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Board of Scientific Counselors, Office of Public Health Preparedness and Response, Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS), has been

renewed for a 2-year period through November 5, 2017.

For information, contact Samuel L. Groseclose D.V.M., M.P.H., Designated Federal Officer, Board of Scientific Counselors, Office of Public Health Preparedness and Response, CDC, HHS, 1600 Clifton Road NE., Mailstop D44, Atlanta, Georgia 30329–4027, Telephone 404/639–0637, Fax 404/639–7977.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

**Elaine L. Baker,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. 2015–29259 Filed 11–16–15; 8:45 am]

**BILLING CODE 4163–18–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[60Day–16–0600; Docket No. CDC–2015–0103]**

### 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 efforts to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. This notice invites comment on CDC Model Performance Evaluation Program (MPEP) for Mycobacterium tuberculosis Susceptibility Testing information collection. CDC is requesting a three-year approval for extension to the previously approved project used to collect data from participants to monitor and evaluate performance and practices among national laboratories performing M. tuberculosis susceptibility testing. Participation in this program is one way laboratories can ensure high-quality laboratory testing, resulting in accurate and reliable testing results.

**DATES:** Written comments must be received on or before January 19, 2016.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC–2015–0103 by any of the following methods:

- Federal eRulemaking Portal: Regulation.gov. Follow the instructions for submitting comments.
- Mail: Leroy A. Richardson, 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. All relevant comments received will be posted without change to Regulations.gov, including any personal information provided. For access to the docket to read background documents or comments received, go to Regulations.gov.

Please note: All public comment should be submitted 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 the 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 OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

### Proposed Project

CDC Model Performance Evaluation Program (MPEP) for Mycobacterium tuberculosis Susceptibility Testing (OMB #0920–0600, expiration. 5/31/2016)—Extension—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

As part of the continuing effort to support domestic public health objectives for treatment of tuberculosis (TB), prevention of multi-drug resistance, and surveillance programs, CDC is requesting the Office of Management and Budget to extend approval of data collection from participants in the Model Performance Evaluation Program (MPEP) for Mycobacterium tuberculosis Drug Susceptibility Testing. There are no changes requested for approval to number of respondents, information collection forms, burden, and other methodology to collect data from participants.

While the overall number of cases of TB in the U.S. has decreased, rates still remain high among foreign-born persons, prisoners, homeless populations, and individuals infected with HIV in major metropolitan areas. To reach the goal of eliminating TB, the Model Performance Evaluation Program for Mycobacterium tuberculosis Drug Susceptibility Testing is used to monitor and evaluate performance and practices among national laboratories performing

M. tuberculosis susceptibility testing. Participation in this program is one way laboratories can ensure high-quality laboratory testing, resulting in accurate and reliable testing results.

By providing an evaluation program to assess the ability of the laboratories to test for drug resistant M. tuberculosis strains, laboratories also have a self-assessment tool to aid in optimizing their skills in susceptibility testing. The information obtained from the laboratories on susceptibility practices and procedures is used to establish variables related to good performance, assessing training needs, and aid with the development of practice standards. The data collected over the previous three-year period enabled CDC to correlate testing practices with performance and to use this information to design training modules targeted to participants encouraging the adaptation of advanced testing methods. Extension of data collection will allow CDC to evaluate the effectiveness of these training modules by continually monitoring laboratory performance.

Participants in this program include domestic clinical and public health laboratories. Data collection from laboratory participants occurs twice per year. The data collected in this program will include the susceptibility test results of primary and secondary drugs, drug concentrations, and test methods performed by laboratories on a set of performance evaluation (PE) samples. The PE samples are sent to participants twice a year. Participants also report demographic data such as laboratory type and the number of tests performed annually.

There is no cost to respondents to participate other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondent | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total burden hours |
|---|---|---|---|---|---|
| Domestic Laboratory | Participant Biosafety Compliance Letter of Agreement | 93 | 2 | 5/60 | 16 |
| | MPEP *Mycobacterium tuberculosis* Results Worksheet | 93 | 2 | 30/60 | 93 |
| | Online Survey Instrument | 93 | 2 | 15/60 | 47 |
| Total | | 93 | 6 | | 156 |

**Leroy A. Richardson,**

*Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.*

[FR Doc. 2015–29272 Filed 11–16–15; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Centers for Disease Control and Prevention

## Advisory Council for the Elimination of Tuberculosis Meeting (ACET)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the following meeting of the aforementioned committee:

Times and Dates:

8:30 a.m.–5:00 p.m., EST, December 15, 2015
8:30 a.m.–12:00 p.m., EST, December 16, 2015

*Place:* Corporate Square, Corporate Boulevard, Building 8, 1st Floor Conference Room, Atlanta, Georgia 30329, telephone (404) 639–8317.

This meeting is also accessible by Webinar:

December 15, 2015

For Participants:

URL: *https://www.mymeetings.com/nc/join/*
Conference number: PW1126536
Audience passcode: 6816256

Participants can join the event directly at:

*https://www.mymeetings.com/nc/join.php?i=PW1126536&p=6816256&t=c*
USA Toll-free +1 (888) 947–9021, Participant code: 6816256

December 16, 2015

For Participants:

URL: *https://www.mymeetings.com/nc/join/*
Conference number: PW5803596
Audience passcode: 6816256

Participants can join the event directly at:

*https://www.mymeetings.com/nc/join.php?i=PW5803596&p=6816256&t=c*
USA Toll-free +1 (888) 947–9021, Participant code: 6816256

*Status:* Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

*Purpose:* This Council advises and makes recommendations to the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the elimination of tuberculosis. Specifically, the Council makes recommendations regarding policies, strategies, objectives, and priorities; addresses the development and application of new technologies; and reviews the extent to which progress has been made toward eliminating tuberculosis.

*Matters for Discussion:* Agenda items include the following topics: (1) Overview of Biomedical Advanced Research and Development Authority (BARDA); (2) Tuberculosis in Congregate Settings; (3) Updates from Workgroups; and (4) other tuberculosis-related issues.

Agenda items are subject to change as priorities dictate.

*Contact Person for More Information:* Margie Scott-Cseh, Centers for Disease Control and Prevention, 1600 Clifton Road NE., M/S E–07, Atlanta, Georgia 30333, telephone (404) 639–8317 Email: *zkr7@cdc.gov*.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

**Elaine L. Baker,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. 2015–29260 Filed 11–16–15; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Centers for Disease Control and Prevention

## Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 80 FR 58479–58485, dated September 29, 2015) is amended to reflect the reorganization of the National Center for Immunization and Respiratory Diseases, and the Office of Infectious Diseases, Centers for Disease Control and Prevention.

Section C–B, Organization and Functions, is hereby amended as follows:

Delete in its entirety the title and function statements for the *Influenza Coordination Unit (CVA4)*.

Delete in its entirety the title and function statements for the *National Center for Immunization and Respiratory Diseases (CVG)* and insert the following:

*National Center for Immunization and Respiratory Diseases (CVG).* The National Center for Immunization and Respiratory Diseases (NCIRD) prevents disease, disability, and death through immunization and by control of respiratory and related diseases. In carrying out its mission, NCIRD: (1) Provides leadership, expertise, and service in laboratory and epidemiological sciences, and in immunization program delivery; (2) conducts applied research on disease prevention and control; (3) translates research findings into public health policies and practices; (4) provides diagnostic and reference laboratory services to relevant partners; (5) conducts surveillance and research to determine disease distribution, determinants, and burden nationally and internationally; (6) responds to disease outbreaks domestically and abroad; (7) ensures that public health decisions are made objectively and based upon the highest quality of scientific data; (8) provides technical expertise, education, and training to domestic and international partners; (9) provides leadership to internal and external partners for establishing and maintaining immunization, and other prevention and control programs; (10) develops, implements, and evaluates domestic and international public health policies; (11) communicates information to increase awareness, knowledge, and understanding of public health issues domestically and internationally, and to promote effective immunization programs; (12) aligns the national center focus with the overall strategic goals of CDC; (13) synchronizes all aspects of CDC's pandemic influenza preparedness and response from strategy through implementation and evaluation; and (14) implements, coordinates, and evaluates programs across NCIRD, Office of Infectious Diseases (OID), and CDC to optimize public health impact.

After the *Office of Science and Integrated Programs (CVG17)* insert the following:

*Influenza Coordination Unit (CVG18).* The mission of the Influenza Coordination Unit (ICU) is to synchronize all aspects of CDC's pandemic influenza preparedness and response from strategy through implementation and evaluation. In carrying out its mission, the ICU: (1) Serves as the principal advisor to the CDC Director on pandemic influenza preparedness and response activities, assisting the Director in formulating and communicating strategic pandemic initiatives and policies; (2) provides strategic leadership for CDC in the areas of pandemic preparedness and response, including setting priorities and promoting science, policies, and programs related to pandemic influenza; (3) strategically manages a budget and allocates funds across the agency to ensure appropriate resources for high priority areas; and (4) conducts ongoing evaluation and adjustment of pandemic preparedness and response activities, in coordination with the National Response Framework and other emergency preparedness guidance, to ensure optimal public health effectiveness and efficient use of human and fiscal resources by developing and leading an exercise program for the Agency, in collaboration with HHS and other partners.

**James Seligman,**

*Acting Chief Operating Officer, Centers for Disease Control and Prevention.*

[FR Doc. 2015–29276 Filed 11–16–15; 8:45 am]

**BILLING CODE 4160–18–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Board of Scientific Counselors, Office of Infectious Diseases: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Board of Scientific Counselors, Office of Infectious Diseases, Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS), has been renewed for a 2-year period through October 31, 2017.

For information, contact Robin Moseley, M.A.T., Designated Federal Officer, Board of Scientific Counselors, Office of Infectious Diseases, CDC, HHS, 1600 Clifton Road NE., Mailstop D10, Atlanta, Georgia 30329–4027, telephone 404/639–4461 or fax 404/235–3562.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

**Elaine L. Baker,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. 2015–29258 Filed 11–16–15; 8:45 am]

**BILLING CODE 4163–18–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[30Day–16–0964]**

### Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted 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. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or

by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

**Proposed Project**

Interventions to Reduce Shoulder MSDS in Overhead Assembly (OMB No. 0920–0964 Exp. 04/30/2015)—Reinstatement—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

The mission of the National Institute for Occupational Safety and Health (NIOSH) is to promote safety and health at work for all people through research and prevention. Under Public Law 91–596, sections 20 and 22 (Section 20–22, Occupational Safety and Health Act of 1970), NIOSH has the responsibility to conduct research to advance the health and safety of workers. In this capacity, NIOSH proposes to conduct a study to assess the effectiveness and cost-benefit of occupational safety and health (OSH) interventions to prevent musculoskeletal disorders (MSDs) among workers in the Manufacturing (MNF) sector.

A reinstatement is necessary because there were significant delays in implementing the tooling intervention in the intended work processes. These delays were to a large degree due to business conditions and were outside of the control of investigators. As result, the study achieved approximately 50% of the original sample size approved by OMB in the original ICR request. The reinstatement is necessary to extend the duration of the ICR so that the additional participants can enrolled and data collection can continue.

The U.S. Manufacturing sector has faced a number of challenges including an overall decline in jobs, an aging workforce, and changes in organizational management systems. Studies have indicated that the average age of industrial workers is increasing and that older workers may differ from younger workers in work capacity, injury risk, severity of injuries, and speed of recovery (Kenny et al., 2008; Gall et al., 2004; Restrepo et al., 2006). As the average age of the industrial population increases and newer systems of work organization (such as lean manufacturing) are changing the nature of labor-intensive work, prevention of MSDs will be more critical to protecting older workers and maintaining productivity.

This study will evaluate the efficacy of two intervention strategies for reducing musculoskeletal symptoms and pain in the shoulder attributable to overhead assembly work in automotive manufacturing. These interventions are, (1) an articulating spring-tensioned tool support device that unloads from the worker the weight of the tool that would otherwise be manually supported, and, (2) a targeted exercise program intended to increase individual employees' strength and endurance in the shoulder and upper arm stabilizing muscle group. As a primary prevention strategy, the tool support engineering control approach is preferred; however, a cost-efficient opportunity exists to concurrently evaluate the efficacy of a preventive exercise program intervention. Both of these intervention approaches have been used in the Manufacturing sector, and preliminary evidence suggests that both approaches may have merit. However, high quality evidence demonstrating their effectiveness, by way of controlled trials, is lacking. This project will be conducted as a partnership between NIOSH and Toyota Motors Engineering & Manufacturing North America, Inc. (TEMA), with the intervention evaluation study taking place at the Toyota Motor Manufacturing Kentucky, Inc. (TMMK) manufacturing facility in Georgetown, Kentucky. The prospective intervention evaluation study will be conducted using a group-randomized controlled trial multi-time series design. Four groups of 25–30 employees will be established to test the two intervention treatment conditions (tool support, exercise program), a combined intervention treatment condition, and a control condition. The four groups will be comprised of employees working on two vehicle assembly lines in different parts of the facility, on two work shifts (first and second shift). Individual randomization to treatment condition is not feasible, so a group-randomization (by work unit) will be used to assign the four groups to treatment and control conditions. Observations will be made over the 24-month study period and questionnaires will include the Shoulder Rating Questionnaire (SRQ), Disabilities of the Arm, Shoulder and Hand (DASH) questionnaire, a Standardized Nordic Questionnaire for body part discomfort, and a Work Organization Questionnaire. In addition to the questionnaires a shoulder-specific functional capacity evaluation test battery will be administered at 90 and 210 days, immediately pre- and post-intervention, to confirm the efficacy of the targeted exercise program in improving shoulder capacity.

In summary, this study will evaluate the effectiveness of two interventions to reduce musculoskeletal symptoms and pain in the shoulder associated with repetitive overhead work in the manufacturing industry and the associated research project will disseminate the results of evidence-based prevention practices to the greatest audience possible.

There is no cost to respondents other than their time. The estimated annualized burden is 236 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) |
|---|---|---|---|---|
| Employees | | | | |
| | Informed Consent Form | 63 | 1 | 5/60 |
| | Consent of Photographic Image Release | 63 | 1 | 2/60 |
| | Physical Activity Readiness (PAR–Q) | 63 | 1 | 2/60 |
| | Shoulder Rating Questionnaire | 63 | 10 | 4/60 |
| | Disabilities of Arm Shoulder and Hand Dash (DASH) | 63 | 10 | 6/10 |
| | Standardized Nordic Questionnaire for Musculoskeletal Symptom Instruments. | 63 | 10 | 4/60 |
| | Work Organization Questionnaire | 63 | 3 | 26/60 |

**Leroy A. Richardson,**

*Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.*

[FR Doc. 2015–29273 Filed 11–16–15; 8:45 am]

BILLING CODE 4163–18–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Centers for Disease Control and Prevention

**[60Day–16–1019; Docket No. CDC–2015–0102]**

## 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 efforts to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

This notice invites comment on Integrating Community Pharmacists and Clinical Sites for Patient-Centered HIV Care. CDC is requesting a 3-year approval for revision to the previously approved project to administer a staff communication questionnaire for medical providers in order to determine how and if the model program improves patient outcomes through improved communication and collaboration between patients' clinical providers and pharmacists.

**DATES:** Written comments must be received on or before January 19, 2016.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC–2015–0102 by any of the following methods:

- Federal eRulemaking Portal: Regulation.gov. Follow the instructions for submitting comments.
- Mail: Leroy A. Richardson, 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. All relevant comments received will be posted without change to Regulations.gov, including any personal information provided. For access to the docket to read background documents or comments received, go to Regulations.gov.

Please note: All public comment should be submitted 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 the 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 OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

### Proposed Project

Integrating Community Pharmacists and Clinical Sites for Patient-Centered HIV Care (OMB 0920–1019, expires 8/31/2018)—Revision—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

Medication Therapy Management (MTM) is a group of pharmacist provided services that is independent of, but can occur in conjunction with, provision of medication. Medication Therapy Management encompasses a broad range of professional activities and cognitive services within the licensed pharmacists' scope of practice and can include monitoring prescription filling patterns and timing of refills, checking for medication interactions, patient education, and monitoring of patient response to drug therapy.

HIV-specific MTM programs have demonstrated success in improving HIV medication therapy adherence and persistence. While MTM programs have be shown to be effective in increasing medication adherence for HIV-infected persons, no MTM programs have been expanded to incorporate primary medical providers in an effort to establish patient-centered HIV care. To address this problem, CDC has entered into a public-private partnership with Walgreen Company (a.k.a. Walgreens pharmacies, a national retail pharmacy chain) to develop and implement a model of HIV care that integrates community pharmacists with primary medical providers for patient-centered HIV care. The model program will be implemented in ten sites and will provide patient-centered HIV care for approximately 1,000 persons.

The patient-centered HIV care model will include the core elements of MTM as well as additional services such as individualized medication adherence counseling, active monitoring of prescription refills and active collaboration between pharmacists and medical clinic providers to identify and resolve medication related treatment problems such as treatment effectiveness, adverse events and poor adherence. The expected outcomes of the model program are increased retention in HIV care, adherence to HIV

medication therapy and viral load suppression.

On May 16, 2014 OMB approved the collection of standardized information from ten project sites over the three-year project period and one retrospective data collection during the first year of the three-year project period. The retrospective data collection will provide information about clients' baseline characteristics prior to participation in the model program which is needed to compare outcomes before and after program implementation. On August 17, 2015 OMB approved the conduct of key informant interviews with program clinic and pharmacy staff in order to evaluate the program processes, administration of a staff communication questionnaire, and OMB approved the collection of time and cost data to be used to estimate the cost of the model program.

CDC seeks approval to administer a staff communication questionnaire for medical providers in order to determine how and if the model program improves patient outcomes through improved communication and collaboration between patients' clinical providers and pharmacists. The staff communication questionnaire for medical providers will be administered twice to program clinic staff. The staff communication questionnaire for medical providers is different from the previously improved staff communication questionnaire; the staff communication questionnaire for medical providers will be administered to program clinic staff whereas the staff communication questionnaire will be administered to program pharmacy staff.

Pharmacy, laboratory, and medical data will be collected through abstraction of all participant clients' pharmacy and medical records. Pharmacy, laboratory and medical data are needed to monitor retention in care, adherence to therapy, viral load suppression and other health outcomes. Program specific data, such as the number of MTM elements completed per project site and time spent on program activities, will be collected by program. Qualitative data will be gathered from program staff through in-person or telephone interviews and through a questionnaire to program pharmacy staff and a separate questionnaire to program clinic staff.

The data collection will allow CDC to conduct continuous program performance monitoring which includes identification of barriers to program implementation, solutions to those barriers, and documentation of client health outcomes. Performance monitoring will allow the model program to be adjusted, as needed, in order to develop a final implementation model that is self-sustaining and which can be used to establish similar collaborations in a variety of clinical settings. Collection of cost data will allow for the cost of the program to be estimated.

There is no cost to participants other than their time. The total estimated annualized burden hours are 6,043.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondent | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total burden (in hours) |
|---|---|---|---|---|---|
| Clinic Data Manager | Project clinic characteristics form | 10 | 3 | 30/60 | 15 |
| Pharmacist | Project pharmacy characteristics form. | 10 | 3 | 30/60 | 15 |
| Clinic Data Manager | *Patient Demographic Information form. | 10 | 100 | 5/60 | 83 |
| Clinic Data Manager | *Initial patient information form | 10 | 100 | 1 | 1,000 |
| Clinic Data Manager | Quarterly patient information form | 10 | 400 | 30/60 | 2,000 |
| Pharmacist | Pharmacy record abstraction form | 10 | 400 | 30/60 | 2,000 |
| Key informants | Interviewer data collection worksheet. | 60 | 2 | 30/60 | 60 |
| Project staff (pharmacists) | Staff communication questionnaire | 30 | 2 | 30/60 | 30 |
| Project staff (medical providers) | Staff communication questionnaire for medical providers. | 40 | 2 | 30/60 | 40 |
| Clinic staff | Clinic cost form | 20 | 2 | 10 | 400 |
| Pharmacy staff | Pharmacy cost form | 20 | 2 | 10 | 400 |
| Total | | | | | 6,043 |

**Leroy A. Richardson,**

*Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.*

[FR Doc. 2015–29274 Filed 11–16–15; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Centers for Disease Control and Prevention

## Board of Scientific Counselors, National Center for Injury Prevention and Control: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Board of Scientific Counselors, National Center for Injury Prevention and Control, Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS), has been renewed for a 2-year period through November 5, 2017.

For information, contact Gwendolyn Cattledge, Ph.D., Designated Federal Officer, Board of Scientific Counselors, National Center for Injury Prevention and Control, CDC, HHS, 1600 Clifton Road NE., M/S F63, Atlanta, Georgia 30329–4027, Telephone 770/488–4655.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and

Prevention and the Agency for Toxic Substances and Disease Registry.

**Elaine L. Baker,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. 2015–29257 Filed 11–16–15; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Centers for Disease Control and Prevention

## Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 80 FR 58479–58485, dated September 29, 2015) is amended to reflect the reorganization of the National Center for Immunization and Respiratory Diseases, and the Office of Infectious Diseases, Centers for Disease Control and Prevention.

Section C–B, Organization and Functions, is hereby amended as follows:

Delete in its entirety the title and function statements for the *Influenza Coordination Unit (CVA4).*

Delete in its entirety the title and function statements for the *National Center for Immunization and Respiratory Diseases (CVG)* and insert the following:

*National Center for Immunization and Respiratory Diseases (CVG).* The National Center for Immunization and Respiratory Diseases (NCIRD) prevents disease, disability, and death through immunization and by control of respiratory and related diseases. In carrying out its mission, NCIRD: (1) Provides leadership, expertise, and service in laboratory and epidemiological sciences, and in immunization program delivery; (2) conducts applied research on disease prevention and control; (3) translates research findings into public health policies and practices; (4) provides diagnostic and reference laboratory services to relevant partners; (5) conducts surveillance and research to determine disease distribution, determinants, and burden nationally and internationally; (6) responds to disease outbreaks domestically and abroad; (7) ensures that public health decisions are made objectively and based upon the highest quality of scientific data; (8) provides technical expertise, education, and training to domestic and international partners; (9) provides leadership to internal and external partners for establishing and maintaining immunization, and other prevention and control programs; (10) develops, implements, and evaluates domestic and international public health policies; (11) communicates information to increase awareness, knowledge, and understanding of public health issues domestically and internationally, and to promote effective immunization programs; (12) aligns the national center focus with the overall strategic goals of CDC; (13) synchronizes all aspects of CDC's pandemic influenza preparedness and response from strategy through implementation and evaluation; and (14) implements, coordinates, and evaluates programs across NCIRD, Office of Infectious Diseases (OID), and CDC to optimize public health impact.

Delete in its entirety the title and function statements for the *Office of Laboratory Science (CVG14).*

After the *Office of Science and Integrated Programs (CVG17)* insert the following:

*Influenza Coordination Unit (CVG18).* The mission of the Influenza Coordination Unit (ICU) is to synchronize all aspects of CDC's pandemic influenza preparedness and response from strategy through implementation and evaluation. In carrying out its mission, the ICU: (1) Serves as the principal advisor to the CDC Director on pandemic influenza preparedness and response activities, assisting the Director in formulating and communicating strategic pandemic initiatives and policies; (2) provides strategic leadership for CDC in the areas of pandemic preparedness and response, including setting priorities and promoting science, policies, and programs related to pandemic influenza; (3) strategically manages a budget and allocates funds across the agency to ensure appropriate resources for high priority areas; and (4) conducts ongoing evaluation and adjustment of pandemic preparedness and response activities, in coordination with the National Response Framework and other emergency preparedness guidance, to ensure optimal public health effectiveness and efficient use of human and fiscal resources by developing and leading an exercise program for the Agency, in collaboration with HHS and other partners.

**James Seligman,**

*Acting Chief Operating Officer, Centers for Disease Control and Prevention.*

[FR Doc. 2015–29282 Filed 11–16–15; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Centers for Disease Control and Prevention

## Board of Scientific Counselors, Office of Infectious Diseases (BSC, OID)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the following meeting of the aforementioned committee:

*Time and Date:*

8:30 a.m.–5:00 p.m., EST, December 9, 2015

8:00 a.m.–12:00 p.m., EST, December 10, 2015

*Place:* CDC, Global Communications Center, 1600 Clifton Road, NE., Building 19, Auditorium B3, Atlanta, Georgia 30333.

*Status:* The meeting is open to the public, limited only by the space available.

*Purpose:* The BSC, OID, provides advice and guidance to the Secretary, Department of Health and Human Services; the Director, CDC; the Director, OID; and the Directors of the National Center for Immunization and Respiratory Diseases, the National Center for Emerging and Zoonotic Infectious Diseases, and the National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention, CDC, in the following areas: Strategies, goals, and priorities for programs; research within the national centers; and overall strategic direction and focus of OID and the national centers.

*Matters for Discussion:* The meeting will include reports from the Board's Food Safety Modernization Act Surveillance Working Group and Infectious Disease Laboratory Working Group; brief updates on selected activities of CDC's infectious disease national centers; and updates and focused discussions on prevention of *Legionella* disease and efforts to better understand and address environmental factors contributing to infectious disease outbreaks.

Agenda items are subject to change as priorities dictate.

*Contact Person for More Information:* Robin Moseley, M.A.T., Designated Federal Officer, OID, CDC, 1600 Clifton Road NE., Mailstop D10, Atlanta, Georgia 30333, Telephone: (404) 639–4461.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and

Prevention and the Agency for Toxic Substances and Disease Registry.

**Elaine L. Baker,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. 2015–29261 Filed 11–16–15; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[60Day–16–16BX; Docket No. CDC–2016–0092]**

### 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:** Cancellation of notice with comment period.

**SUMMARY:** The notice ''Proposed Data Collection Submitted for Public Comment and Recommendations'' on Monitoring and Reporting for the Core State Violence and Injury Prevention Program Cooperative Agreement (80 FR 68543, November 5, 2015) is cancelled. This notice invited comment on a proposed information collection entitled ''Monitoring and Reporting for the Core State Violence and Injury Prevention Program Cooperative Agreement,'' where CDC would use the information collected to monitor cooperative agreement awardees and to identify challenges to program implementation and achievement of outcomes. This proposed data collection also received publication for public comment on November 9, 2015 under Docket ID 60Day–16–16BZ; Docket No. CDC–2015–0095.

**FOR FURTHER INFORMATION CONTACT:** (404) 639–7570 or send comments to CDC, Leroy Richardson, 1600 Clifton Road, MS D–74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

Dated: November 12, 2015.

**Leroy A. Richardson,**

*Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.*

[FR Doc. 2015–29297 Filed 11–12–15; 4:15 pm]

**BILLING CODE P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Submission for OMB Review; Comment Request

*Title:* Permanency Innovations Initiative Evaluation: Phase 4

*OMB No.:* 0970–0408

*Description:* The Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS) intends to collect additional data for an evaluation of the Permanency Innovations Initiative (PII). This 5-year initiative, funded by the Children's Bureau (CB) within ACF, is intended to build the evidence base for innovative interventions that enhance well-being and improve permanency outcomes for particular groups of children and youth who are at risk for long-term foster care and who experience the most serious barriers to timely permanency.

Data collection for the PII evaluation includes a number of components beginning at different points in time. Phase 1 (approved August 2012, OMB# 0970–0408) included data collection for a cross-site implementation evaluation and site-specific evaluations of two PII grantees (Washoe County, Nevada, and the State of Kansas). Phase 2 (approved August 2013) included data collection for two more PII grantees (Illinois DCFS and one of two interventions offered by the Los Angeles LGBTQ Center's Recognize Intervene Support Empower [RISE] project). Phase 3 (approved July 2014) included data collection for an evaluation of another PII grantee intervention and two additional cross-site PII studies. The grantee intervention was a second RISE intervention, the Care Coordination Team (CCT). The two PII cross-site studies were a cost study and an administrative data study.

The current request if for Phase 4 and includes data collection for another PII grantee, the California Department of Social Services' California Partnership for Permanency (CAPP) project.

*Respondents:* Spanish and English speaking biological parents, legal guardians, foster parents (or caregivers)

ANNUAL BURDEN ESTIMATES

| Instrument | Total number of respondents | Annual number of respondents | Number of responses per respondent | Average burden hours per response | Total annual burden hours |
|---|---|---|---|---|---|
| CAPP Parent-Legal Guardian Questionnaire | 1673 | 558 | 1 | .6 | 335 |
| CAPP Caregiver Questionnaire | 1763 | 587 | 1 | .6 | 352 |
| CAPP annual burden hours | | | | | 687 |

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: OPRE Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *OPREinfocollection@acf.hhs.gov*.

OMB COMMENT: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV,* Attn: Desk Officer for the Administration for Children and Families.

**Robert Sargis,**

*ACF Reports Clearance Officer.*

[FR Doc. 2015–29338 Filed 11–16–15; 8:45 am]

**BILLING CODE 4184–01–P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**[Docket No. FDA–2012–D–0529]**

## Organ-Specific Warnings: Internal Analgesic, Antipyretic, and Antirheumatic Drug Products for Over-the-Counter Human Use—Labeling for Products That Contain Acetaminophen; Guidance for Industry; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''Organ-Specific Warnings: Internal Analgesic, Antipyretic, and Antirheumatic Drug Products for Over-the-Counter Human Use—Labeling for Products That Contain Acetaminophen.'' The guidance is intended to inform manufacturers of certain nonprescription (also referred to as over-the-counter or OTC) internal analgesic, antipyretic, and antirheumatic (IAAA) drug products that contain acetaminophen of the circumstances for which FDA does not intend to object to the inclusion of a liver warning that differs from that required under FDA regulations, provided the warning appears as described in the guidance.

**DATES:** Submit either electronic or written comments on Agency guidances at any time.

**ADDRESSES:** You may submit comments as follows:

*Electronic Submissions*

Submit electronic comments in the following way:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://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 *http://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): Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, 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–2012–D–0529 for ''Organ-Specific Warnings: Internal Analgesic, Antipyretic, and Antirheumatic Drug Products for Over-the-Counter Human Use—Labeling for Products That Contain Acetaminophen Guidance for Industry.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management 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 *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. 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: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

*Docket:* For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://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 Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

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. 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:** Emily Baker, Office of Unapproved Drugs and Labeling Compliance, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–7524, *Emily.Baker@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

FDA is announcing the availability of a guidance for industry entitled ''Organ-Specific Warnings: Internal Analgesic, Antipyretic, and Antirheumatic Drug Products for Over-the-Counter Human Use—Labeling for Products That Contain Acetaminophen.'' In the **Federal Register** of December 26, 2006 (71 FR 77314), FDA published a proposed rule on organ-specific warnings and related labeling for OTC IAAA drug products. In the **Federal Register** of April 29, 2009 (74 FR 19385), FDA published the final rule (2009 final rule). In the **Federal Register** of November 25, 2009 (74 FR 61512), FDA published a technical amendment to clarify several provisions in response to industry feedback. The 2009 final rule, as amended, changed some of the labeling requirements for OTC IAAA drug products to inform consumers about the risk of liver injury when using acetaminophen and the risk of stomach bleeding when using nonsteroidal anti-

inflammatory drugs. It went into effect April 29, 2010.

Under that rule, the labeling for OTC IAAA products that contain acetaminophen and are labeled for adults only must include the liver warning described below. Similarly, the labeling for OTC IAAA products that contain acetaminophen and are labeled for adults and children under 12 year of age must include a similar liver warning described below.

Adults Only (§ 201.326(a)(1)(iii)(A) (21 CFR 201.326(a)(1)(iii)(A))):

Liver warning: This product contains acetaminophen. Severe liver damage may occur if you take • more than [insert maximum number of daily dosage units] in 24 hours, which is the maximum daily amount [optional: ''for this product''] • with other drugs containing acetaminophen • 3 or more alcoholic drinks every day while using this product.

Adults and children under 12 years of age (§ 201.326(a)(1)(v)(A) (21 CFR 201.326(a)(1)(v)(A))):

Liver warning: This product contains acetaminophen. Severe liver damage may occur if • adult takes more than [insert maximum number of daily dosage units] in 24 hours, which is the maximum daily amount [optional: ''for this product''] • child takes more than 5 doses in 24 hours • taken with other drugs containing acetaminophen • adult has 3 or more alcoholic drinks every day while using this product.

Although the currently proposed maximum daily dose of acetaminophen is 4,000 milligrams (mg), some OTC IAAA products that contain acetaminophen have directions for use that provide a maximum daily dose of acetaminophen for that product that is less than 4,000 mg. For example, for some OTC IAAA drug products that contain both acetaminophen and one or more other active ingredients, the maximum number of daily dosage units might be limited by an active ingredient other than acetaminophen, which could result in a maximum daily dose of acetaminophen that is less than 4,000 mg for that product. The optional statement, ''for this product,'' in the first bullet of the liver warning is intended to address these situations by clarifying that the maximum number of daily dosage units for a product might not reflect the maximum daily dose of acetaminophen.

However, the Agency understands that in certain circumstances, despite this optional statement, the wording of the first bullet in the warnings shown above might be interpreted as indicating that severe liver damage is associated with a total daily dose of acetaminophen that is less than 4,000 mg. This suggestion is not the intent of the regulation. To address this potential confusion, the Agency does not intend to object to the inclusion of a liver warning that differs from that required under § 201.326(a)(1)(iii)(A) and § 201.326(a)(1)(v)(A), provided the warning appears as described in the guidance.

In the **Federal Register** of July 5, 2012 (77 FR 39710), FDA published a draft guidance entitled ''Organ-Specific Warnings: Internal Analgesic, Antipyretic, and Antirheumatic Drug Products for Over-the-Counter Human Use—Labeling for Products That Contain Acetaminophen.'' The July 2012 draft guidance gave interested persons an opportunity to submit comments through September 4, 2012. We have made changes to the guidance in response to comments received and have clarified the information in section III of the draft guidance.

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 Organ-Specific Warnings: Internal Analgesic, Antipyretic, and Antirheumatic Drug Products for Over-the-Counter Human Use—Labeling for Products That Contain Acetaminophen. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

## II. Paperwork Reduction Act of 1965

The recommendations in this guidance are not subject to review by the Office of Management and Budget because they do not constitute a ''collection of information'' under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Rather, the labeling statements are a ''public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public'' (5 CFR 1320.3(c)(2)).

## III. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov*.

Dated: November 12, 2015.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2015–29281 Filed 11–16–15; 8:45 am]

BILLING CODE 4164–01–P

# DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Food and Drug Administration

**[Docket No. FDA–2014–N–0229]**

## Issuance of Priority Review Voucher; Rare Pediatric Disease Product

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the issuance of a priority review voucher to the sponsor of a rare pediatric disease product application. The Federal Food, Drug, and Cosmetic Act (the FD&C Act), as amended by the Food and Drug Administration Safety and Innovation Act (FDASIA), authorizes FDA to award priority review vouchers to sponsors of rare pediatric disease product applications that meet certain criteria. FDA has determined that STRENSIQ (asfotase alfa), manufactured by Alexion Pharmaceuticals, Inc., meets the criteria for a priority review voucher.

**FOR FURTHER INFORMATION CONTACT:** Larry Bauer, Rare Diseases Program, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6408, Silver Spring, MD 20993–0002, 301–796–4842, FAX: 301–796–9858, email: *larry.bauer@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** FDA is announcing the issuance of a priority review voucher to the sponsor of a rare pediatric disease product application. Under section 529 of the FD&C Act (21 U.S.C. 360ff), which was added by FDASIA, FDA will award priority review vouchers to sponsors of rare pediatric disease product applications that meet certain criteria. FDA has determined that STRENSIQ (asfotase alfa), manufactured by Alexion Pharmaceuticals, Inc., meets the criteria for a priority review voucher. Asfotase alfa is a long-term enzyme replacement therapy for patients with infantile- and juvenile-onset hypophosphatasia (HPP). HPP is a rare genetic disorder that affects the development of bones and teeth.

For further information about the Rare Pediatric Disease Priority Review Voucher Program and for a link to the full text of section 529 of the FD&C Act, go to *http://www.fda.gov/ForIndustry/DevelopingProductsforRareDiseasesConditions/RarePediatricDiseasePriorityVoucherProgram/default.htm.*

For further information about STRENSIQ (asfotase alfa), go to the

Drugs@FDA Web site at *http://www.accessdata.fda.gov/scripts/cder/drugsatfda/index.cfm.*

Dated: November 9, 2015.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2015–29280 Filed 11–16–15; 8:45 am]

BILLING CODE 4164–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### National Advisory Council on Nurse Education and Practice; Notice for Request for Nominations

**SUMMARY:** The Health Resources and Services Administration (HRSA) is requesting nominations to fill vacancies on the National Advisory Council on Nurse Education and Practice (NACNEP). The NACNEP is in accordance with the provisions of 42 United States Code (U.S.C.) 297t; Section 851 of the Public Health Service Act, as amended. The Council is governed by provisions of Public Law 92–463, which sets forth standards for the formation and use of advisory committees.

**DATES:** The agency will receive nominations on a continuous basis.

**ADDRESSES:** All nominations should be submitted to Regina Wilson, Advisory Council Operations, Bureau of Health Workforce, HRSA, 11w45c, 5600 Fishers Lane, Rockville, Maryland 20857. Mail delivery should be addressed to Regina Wilson, Advisory Council Operations, Bureau of Health Workforce, HRSA, at the above address, or via email to: *RWilson@hrsa.gov.*

**FOR FURTHER INFORMATION CONTACT:** Erin Fowler, Designated Federal Official, NACNEP, by phone at 301–443–7308 or by email at *efowler@hrsa.gov.* A copy of the current committee membership, charter and reports can be obtained by accessing the NACNEP Web site.

**SUPPLEMENTARY INFORMATION:** Under the authorities that established the NACNEP and the Federal Advisory Committee Act, HRSA is requesting nominations for new committee members. The NACNEP provides advice and recommendations to the Secretary and Congress in preparation of general regulations and concerning policy matters arising in the administration of Title VIII, including the range of issues relating to the nurse workforce, education, and practice improvement. Annually, the NACNEP prepares and submits to the Secretary, the Committee on Labor and Human Resources of the Senate, and the Committee on Commerce of the House of Representatives, a report describing the activities of the council, including findings and recommendations made by the NACNEP concerning the activities under Title VIII.

Specifically, HRSA is requesting nominations for voting members of the NACNEP representing leading authorities in the various fields of nursing, higher and secondary education, and associate degree schools of nursing; and from representatives of advanced education nursing groups (such as nurse practitioners, nurse midwives, and nurse anesthetists); from hospitals and other institutions and organizations which provide nursing services; from practicing professional nurses; from the general public; and full-time students enrolled in schools of nursing. The majority of NACNEP members shall be nurses.

The Department of Health and Human Services (HHS) will consider nominations of all qualified individuals with the areas of subject matter expertise noted above. Individuals may nominate themselves or other individuals, and professional associations and organizations may nominate one or more qualified persons for membership. Nominations shall state that the nominee is willing to serve as a member of the NACNEP and appears to have no conflict of interest that would preclude the NACNEP membership. Potential candidates will be asked to provide detailed information concerning financial interests, consultancies, research grants, and/or contracts that might be affected by recommendations of the NACNEP to permit evaluation of possible sources of conflicts of interest.

A nomination package should include the following information for each nominee: (1) A letter of nomination stating the name, affiliation, and contact information for the nominee, the basis for the nomination (*i.e.,* what specific attributes, perspectives, and/or skills does the individual possess that would benefit the workings of NACNEP), and the nominee's field(s) of expertise; (2) a biographical sketch of the nominee and a copy of his/her curriculum vitae; and (3) the name, address, daytime telephone number, and email address at which the nominator can be contacted. Nominations will be considered as vacancies occur on the NACNEP. Nominations should be updated and resubmitted every 3 years to continue to be considered for committee vacancies.

HHS strives to ensure that the membership of HHS Federal advisory committees is fairly balanced in terms of points of view represented and the committee's function. Every effort is made to ensure that the views of women, all ethnic and racial groups, and people with disabilities are represented on HHS Federal advisory committees. The Department also encourages geographic diversity in the composition of the committee. The Department encourages nominations of qualified candidates from all groups and locations. Appointment to the NACNEP shall be made without discrimination on the basis of age, race, ethnicity, gender, sexual orientation, disability, and cultural, religious, or socioeconomic status.

**Jackie Painter,**

*Director, Division of the Executive Secretariat.*

[FR Doc. 2015–29195 Filed 11–16–15; 8:45 am]

BILLING CODE 4165–15–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### National Advisory Council on Migrant Health Request for Nominations for Voting Members

**AGENCY:** Health Resources and Services Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Health Resources and Services Administration (HRSA) is requesting nominations to fill vacancies on the National Advisory Council on Migrant (NACMH). The NACMH is authorized under 42 U.S.C. 218, section 217 of the Public Health Service (PHS) Act, as amended and governed by provisions of Public Law 92–463, as amended, (5 U.S.C. Appendix 2).

**DATES:** The agency will receive nominations on a continuous basis.

**ADDRESSES:** All nominations should be addressed to the Designated Federal Official, NACMH, Strategic Initiatives and Planning Division, Office of Policy and Program Development, Bureau of Primary Health Care, HRSA, Suite 17C–05, 5600 Fishers Lane, Rockville, Maryland 20857 or via email to: *JRodrigue@hrsa.gov* and *GCate@hrsa.gov.*

**FOR FURTHER INFORMATION CONTACT:** CDR Jacqueline Rodrigue, MSW, Designated Federal Official, NACMH, at (301) 443–1127 or email *JRodrigue@hrsa.gov.*

**SUPPLEMENTARY INFORMATION:** As authorized under section 330(g) of the Public Health Service Act, as amended, 42 U.S.C. 254b, the Secretary

established the NACMH. The NACMH is governed by the Federal Advisory Committee Act (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory committees.

The NACMH consults with and makes recommendations to the Secretary and the HRSA Administrator, concerning the organization, operation, selection, and funding of migrant health centers and other entities under grants and contracts under section 330 of the PHS Act.

The NACMH shall consist of fifteen members, including the Chair and Vice Chair. The Secretary selects all members of the NACMH. Twelve members are from governing boards of migrant health centers and other entities assisted under section 330 of the PHS Act. Of these twelve members, at least nine shall be chosen from among those members of such centers or grantees and who are familiar with the delivery of health care to migratory and seasonal agricultural workers. The remaining three members are individuals who are qualified by training and experience in the medical sciences or in the administration of health programs. Members shall be appointed for terms of 4 years. New members filling a vacancy that occurred prior to expiration of a term may serve only for the remainder of such term. Members may serve after the expiration of their terms until their successors have taken office, but no longer than 120 days.

*Compensation:* Members who are not full-time federal employees shall be paid at the rate of $200 per day including travel time, plus per diem and travel expenses in accordance with Standard Government Travel Regulations.

Specifically, HRSA is requesting nominations for:

- *Board Member/Patient:* A nominee *must be a member* or member-elect of a governing board of an organization receiving funding under section 330(g) of the PHS Act or of other entity assisted under section 330 of the PHS Act. A board member nominee must also be a patient of the entity that he/she represents. Additionally, a board member nominee must be familiar with the delivery of primary health care to migratory agricultural workers and seasonal agricultural workers and their families.
- *Administrator/Provider Representative:* A nominee must be qualified by training and experience in the medical sciences or in the administration of health programs.

The Department of Health and Human Services (HHS) will consider nominations of all qualified individuals.

A complete nomination package should include the following information for each nominee:

(1) A NACMH Nomination form; (2) three reference letters; and (3) a biographical sketch of the nominee and a copy of his/her curriculum vitae. The nomination package must also state that the nominee is willing to serve as a member of the NACMH and appears to have no conflict of interest that would preclude membership. An ethics review is conducted for each selected nominee.

HHS strives to ensure that the membership of HHS federal advisory committees is fairly balanced in terms of points of view represented and the committee's function. Every effort is made to ensure that the views of women, all ethnic and racial groups, and people with disabilities are represented on HHS federal advisory committees. The Department also encourages geographic diversity in the composition of the committee. The Department encourages nominations of qualified candidates from all groups and locations. Appointment to the NACMH shall be made without discrimination on the basis of age, race, ethnicity, gender, sexual orientation, disability, and cultural, religious, or socioeconomic status.

**Jackie Painter,**

*Director, Division of the Executive Secretariat.*

[FR Doc. 2015–29196 Filed 11–16–15; 8:45 am]

BILLING CODE 4165–15–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Indian Health Service

**[OMB Control Number 0917–0034]**

### Request for Public Comment: 30-Day Proposed Information Collection: Indian Health Service (IHS) Sharing What Works—Best Practice, Promising Practice, and Local Effort (BPPPLE) Form

**AGENCY:** Indian Health Service, HHS.

**ACTION:** Notice and request for comments. Request for extension of approval.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, Public Law (Pub. L.) 104–13 [44 United States Code (U.S.C.) § 3507(a)(1)(D)], the Indian Health Service (IHS) invites the general public to take this opportunity to comment on the information collection titled, ''Indian Health Service (IHS) Sharing What Works—Best Practice, Promising Practice, and Local Effort (BPPPLE) Form,'' Office of Management and Budget (OMB) Control Number 0917–0034.

This previously approved information collection project was last published in the **Federal Register** (80 FR 61215) on October 9, 2015, and allowed 60 days for public comment. No public comment was received in response to the notice. This notice announces our intent to submit this collection, which expires January 31, 2016, to OMB for approval of an extension, and to solicit comments on specific aspects for the proposed information collection. A copy of the supporting statement is available at *www.regulations.gov* (see Docket ID IHS–2015–0008).

*Proposed Collection: Title:* 0917–0034, Indian Health Service (IHS) Sharing What Works—Best Practice, Promising Practice, and Local Effort (BPPPLE) Form. *Type of Information Collection Request:* Extension, without revision, of the currently approved information collection, 0917–0034, IHS Sharing What Works—Best Practice, Promising Practice, and Local Effort (BPPPLE) Form. There are no program changes or adjustments in burden hours. *Form(s):* 0917–0034, IHS Sharing What Works—Best Practice, Promising Practice, and Local Effort (BPPPLE) Form. *Need and Use of Information Collection:* The IHS goal is to raise the health status of the American Indian and Alaska Native (AI/AN) people to the highest possible level by providing comprehensive health care and preventive health services. To support the IHS mission and encourage the creation and utilization of performance driven products/services by IHS, Tribal, and urban Indian health (I/T/U) programs, the Office of Preventive and Clinical Services' program divisions (*i.e.,* Behavioral Health, Health Promotion/Disease Prevention, Nursing, and Dental) have developed a centralized program database of best practices, promising practices and local efforts (BPPPLE) and resources. The purpose of this collection is to further the development of a database of BPPPLE, resources, and policies which are available to the public on the IHS.gov Web site. This database will be a resource for program evaluation and for modeling examples of various health care projects occurring in AI/AN communities.

All information submitted is on a voluntary basis; no legal requirement exists for collection of this information. The information collected will enable the Indian health systems to: (a) Identify evidence based approaches to

prevention programs among the I/T/Us when no system is currently in place, and (b) Allow the program managers to review BPPPLEs occurring among the I/T/Us when considering program planning for their communities.

*Affected Public:* Individuals. *Type of Respondents:* I/T/U health programs' staff. The table below provides: Types of data collection instruments, Estimated number of respondents, Number of responses per respondent, Average burden hour per response, and Total annual burden hour(s).

ESTIMATED BURDEN HOURS

| Data collection instrument(s) | Number of respondents | Number of responses per respondent | Average burden hour per response | Total annual burden hours |
|---|---|---|---|---|
| IHS Sharing What Works—BPPPLE Form (OMB Form No. 0917–0034) ...... | 100 | 1 | 20/60 | 33.3 |
| Total ........ | 100 | ........ | ........ | 33.3 |

There are no Capital Costs, Operating Costs, and/or Maintenance Costs to report.

*Requests for Comments:* Your written comments and/or suggestions are invited on one or more of the following points:

(a) Whether the information collection activity is necessary to carry out an agency function;

(b) whether the agency processes the information collected in a useful and timely fashion;

(c) the accuracy of the public burden estimate (the estimated amount of time needed for individual respondents to provide the requested information);

(d) whether the methodology and assumptions used to determine the estimates are logical;

(e) ways to enhance the quality, utility, and clarity of the information being collected; and

(f) ways to minimize the public burden through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

*Direct Your Comments to OMB:* Send your comments and suggestions regarding the proposed information collection contained in this notice, especially regarding the estimated public burden and associated response time to: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for IHS.

**FOR FURTHER INFORMATION CONTACT:** To request additional information, please contact Tamara Clay by one of the following methods:

*Prior to November 20, 2015:*

- *Mail:* Tamara Clay, Information Collection Clearance Officer, Indian Health Service, 801 Thompson Avenue, TMP, STE 450–30, Rockville, MD 20852.
- *Phone:* 301–443–4750.
- *Email: Tamara.Clay@ihs.gov.*
- *Fax:* 301–443–4750.

*After November 20, 2015:*

- *Mail:* Tamara Clay, Information Collection Clearance Officer, Indian Health Service, Office of Management Services, Division of Regulatory Affairs, 5600 Fishers Lane, Rockville, Mail Stop 09E70, MD 20857.
- *Email: Tamara.Clay@ihs.gov.*

*Comment Due Date:* December 17, 2015. Your comments regarding this information collection are best assured of having full effect if received within 30 days of the date of this publication.

Dated: November 5, 2015.

**Robert G. McSwain,**

*Principal Deputy Director, Indian Health Service.*

[FR Doc. 2015–29251 Filed 11–16–15; 8:45 am]

BILLING CODE 4165–16–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review: Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Urological Small Business.

*Date:* December 3–4, 2015.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

*Contact Person:* Ryan G. Morris, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4205, MSC 7814, Bethesda, MD 20892, 301–435–1501, *morrisr@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Molecular and Cellular Neurodevelopment.

*Date:* December 4, 2015.

*Time:* 3:30 p.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Christine A Piggee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4186, MSC 7850, Bethesda, MD 20892, 301–435–0657, *christine.piggee@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 10, 2015.

**Natasha Copeland,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–29244 Filed 11–16–15; 8:45 am]

BILLING CODE 4140–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Digestive Disease.

*Date:* November 23, 2015.

*Time:* 2:00 p.m. to 4:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Aiping Zhao, MD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm 2188 MSC7818, Bethesda, MD 20892–7818, (301) 435–0682, *zhaoa2@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Oncology 2—Translational Clinical Applications.

*Date:* November 24, 2015.

*Time:* 11:00 a.m. to 1:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Sharon K. Gubanich, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6195D, MSC 7804, Bethesda, MD 20892, (301) 408–9512, *gubanics@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 10, 2015.

**Natasha Copeland,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–29243 Filed 11–16–15; 8:45 am]

BILLING CODE 4140–01–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Proposed Collection; 60-Day Comment Request; Drug Accountability Report Form and Investigator Registration Procedure in the Conduct of Investigational Trials for the Treatment of Cancer (NCI)

**SUMMARY:** In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the Cancer Therapy Evaluation Program (CTEP)/Division of Cancer Therapy and Diagnostics (DCTD), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) The quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

*To Submit Comments and for Further Information:* To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact, Charles Hall, RPh, M.S., Chief, Pharmaceutical Management Branch, Cancer Therapy Evaluation Program, National Cancer Institute, 9609 Medical Center Drive, RM 5W240, MSC 9725, Bethesda, Maryland 20892. Or call non-toll-free number (240) 276–6575, or email your request, include your address to: *hallch@mail.nih.gov.*

*Comment Due Date:* Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

*Proposed Collection:* Title: Drug Accountability Report Form and Investigator Registration Procedure in the Conduct of Investigational Trials for the Treatment of Cancer, 0925–0613, Expiration Date 03/31/2016, Revision, National Cancer Institute (NCI), National Institutes of Health (NIH).

*Need and Use of Information Collection:* Revision. The U.S. Food and Drug Administration (FDA) holds the National Cancer Institute (NCI) responsible, as a sponsor of investigational drug trials, for the collection of information about the clinical investigators who participate in these trials and to assure the FDA that systems for accountability are being maintained by investigators in its clinical trials program. The information collected is used to identify qualified investigators and to facilitate the submission and distribution of important information relative to the investigational drug and the response of the patient to that drug. Investigators are physicians who specialize in the treatment of patients with cancer. Data obtained from the Drug Accountability Record is used to track the dispensing of investigational anticancer agents from receipt from the NCI to dispensing or administration to patients. NCI and/or its auditors use this information for compliance purposes. The frequency of Response is up to 16 times per year. The affected public is private sector including businesses, other for-profit organizations, and non-profit institutions. The type of respondents are investigators, pharmacists, nurses, pharmacy technicians, and data managers.

OMB approval is requested for 3 years. There are no capital costs, operating costs or maintenance costs. The total estimated annualized burden hours are 22,645 hours.

**Estimated Annualized Burden Hours**

TABLE 1—ESTIMATES OF ANNUAL BURDEN

| Type of respondents | Form | Number of respondents | Frequency of response | Average time per response (in hours) | Total hour burden |
|---|---|---|---|---|---|
| Investigators and Designee for Investigator Registration and DARF. | Statement of Investigator (Attachments 3A, 3B or 10). | 22,283 | 1 | 15/60 | 5,571 |
| | NCI/DCTD/CTEP Supplemental Investigator (Attachment 4). | 22,283 | 1 | 10/60 | 3,721 |
| | Financial Disclosure Forms (Attachment 5A or 5B). | 22,283 | 1 | 5/60 | 1,849 |
| | NCI/DCTD/CTEP Drug Accountability Record Form (DARF and DARF-Oral) (Attachments 1 & 2). | 3,288 | 16 | 4/60 | 3,525 |

Dated: November 9, 2015.

**Karla Bailey,**

*Project Clearance Liaison, National Cancer Institute, NIH.*

[FR Doc. 2015–29246 Filed 11–16–15; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Allergy and Infectious Diseases: Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID SBIR Phase II Clinical Trial Implementation Cooperative Agreement (U44).

*Date:* December 9, 2015.

*Time:* 9:00 a.m. to 2:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Room 4C100, 5601 Fishers Lane, Rockville, MD 20892.

*Contact Person:* Zhuqing (Charlie) Li, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room # 3G41B, National Institutes of Health/NIAID, 5601 Fishers Lane, MSC9823, Bethesda, MD 20892–9823, (240) 669–5068, *zhuqing.li@nih.gov*.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Resource-Related Research Projects (R24) and NIAID Investigator Initiated Program Project Applications (P01).

*Date:* January 12–13, 2016.

*Time:* 12:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Room 3F100, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

*Contact Person:* Quirijn Vos, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room 3G31A, National Institutes of Health/NIAID, 5601 Fishers Lane, MSC 9823, Bethesda, MD 20892–9823, (240) 669–5059, *qvos@niaid.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: November 9, 2015.

**Natasha Copeland,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–29247 Filed 11–16–15; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2); notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The purpose of this meeting is to evaluate requests for preclinical development resources for potential new therapeutics for the treatment of cancer. The outcome of the evaluation will provide information to internal NCI committees that will decide whether NCI should support requests and make available contract resources for development of the potential therapeutic to improve the treatment of various forms of cancer. The research proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposed research projects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Cancer Institute Special Emphasis Panel; Dec 2015 Cycle 21 NExT SEP Committee Meeting.

*Date:* December 16, 2015.

*Time:* 8:30 a.m. to 4:30 p.m.

*Agenda:* To evaluate the NCI Experimental Therapeutics Program Portfolio.

*Place:* National Institutes of Health, 9000 Rockville Pike, Campus Building 31, Conference Room 6C6, Bethesda, MD 20892.

*Contact Person:* Barbara Mroczkowski, Ph.D., Executive Secretary, Discovery Experimental Therapeutics Program National Cancer Institute, NIH, 31 Center Drive, Room 3A44, Bethesda, MD 20817, (301) 496–4291, *mroczkoskib@mail.nih.gov.*

Toby Hecht, Ph.D., Executive Secretary, Development Experimental Therapeutics Program, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 3W110, Rockville, MD 20850, (240) 276–5683 *toby.hecht2@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: November 10, 2015.

**Melanie J. Gray,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–29245 Filed 11–16–15; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### Transportation Security Administration

### Intent To Request Renewal From OMB of One Current Public Collection of Information: Aircraft Operator Security

**AGENCY:** Transportation Security Administration, DHS.

**ACTION:** 60-day Notice.

**SUMMARY:** The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0003, abstracted below, that TSA will submit to OMB for revision in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. Aircraft operators must provide certain information to TSA and adopt and implement a TSA-approved security program. These programs require aircraft operators to maintain and update records to ensure compliance with security provisions outlined in 49 CFR part 1544.

**DATES:** Send your comments by January 19, 2016.

**ADDRESSES:** Comments may be emailed to *TSAPRA@tsa.dhs.gov* or delivered to the TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011.

**FOR FURTHER INFORMATION CONTACT:** Joanna Johnson at the above address, or by telephone (571) 227–3651.

**SUPPLEMENTARY INFORMATION:**

#### Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

#### Information Collection Requirement

*1652–0003; Aircraft Operator Security, 49 CFR part 1544.* The information collected is used to determine compliance with 49 CFR part 1544 and to ensure passenger safety by monitoring aircraft operator security procedures. For purposes of consolidating ICRs and streamlining TSA's collections, TSA is seeking to revise its OMB control number, 1652–0003, Aircraft Operator Security to include information collected under OMB control number 1652–0006, pertaining to 49 CFR part 1544. OMB control number 1652–0006, Employment Standards, involves the requirement for aircraft operators to maintain records of compliance with Part 1544 for selected flight crew and security employees. TSA implements aircraft operator security standards at 49 CFR part 1544 to require each aircraft operator to which this part applies to adopt and carry out a security program. These TSA-approved security programs establish procedures that aircraft operators must carry out to protect persons and property traveling on flights provided by the aircraft operator against acts of criminal violence, aircraft piracy, and the introduction of explosives, incendiaries, or weapons aboard an aircraft.

This information collection is mandatory for aircraft operators. As part of their security programs, affected aircraft operators are required to maintain and update, as necessary, records of compliance with the security program provisions set forth in 49 CFR part 1544, including maintaining records of compliance for selected crew and security employees. Part 1544 also requires affected aircraft operators to submit security program amendments to TSA when applicable and to make their security programs and associated records available for inspection and copying by TSA to ensure transportation security and regulatory compliance.

In addition, part 1544 requires the affected aircraft operators to submit information on aircraft operators' flight crews and other employees, passengers, and cargo. The information collection includes information regarding security program (SP) updates, amendments, and changes; criminal history records check (CHRC) applications; recordkeeping on SPs, CHRCs, training and other recordkeeping matters; watchlist matching for employees and reporting matches to TSA; watchlist matching for passengers in case of Secure Flight outages; and incident and suspicious activity reporting. Aircraft operators may provide the information electronically or manually.

Aircraft operators must ensure that certain flight crew members and employees submit to and receive a criminal history records check (CHRC). These requirements apply to flight crew members and employees with unescorted access authority to a Security Identification Display Area (SIDA) or who perform screening, checked baggage, or cargo functions. As part of the CHRC process, the individual must provide identifying information, including fingerprints. Additionally, aircraft operators must maintain these records, and records associated with compliance with Security Directives, and make them available to TSA for inspection and copying upon request.

TSA estimates that there will be approximately 801 respondents to the information requirements described above, with a total annual burden estimate of approximately 2,262,268 hours.

Dated: November 10, 2015.

**Joanna Johnson,**

*TSA Paperwork Reduction Act Officer, Office of Information Technology.*

[FR Doc. 2015–29234 Filed 11–16–15; 8:45 am]

BILLING CODE 9110–05–P

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

**[OMB Control Number 1615–0126]**

### Agency Information Collection Activities: Collection of Qualitative Feedback Through Focus Groups; Extension, Without Change, of a Currently Approved Collection

**AGENCY:** U.S. Citizenship and Immigration Services, Department of Homeland Security.

**ACTION:** 60-Day notice.

**SUMMARY:** The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of

the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

**DATES:** Comments are encouraged and will be accepted for 60 days until January 19, 2016.

**ADDRESSES:** All submissions received must include the OMB Control Number 1615–0126 in the subject box, the agency name and Docket ID USCIS–2012–0004. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal Web site at *http://www.regulations.gov* under e-Docket ID number USCIS–2012–0004;

(2) *Email.* Submit comments to *USCISFRComment@uscis.dhs.gov;*

(3) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140.

**FOR FURTHER INFORMATION CONTACT:** USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Laura Dawkins, Chief, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, telephone number 202–272–8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS Web site at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833).

**SUPPLEMENTARY INFORMATION:**

## Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2012–0004 in the search box. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(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 submission of responses.

## Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Collection of Qualitative Feedback through Focus Groups.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* No Agency Form Number; U.S. Citizenship and Immigration Services (USCIS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households; Business or other for-profit. The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback USCIS means information that provides useful insights on perceptions and opinions, but not responses to statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide information on customer and stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, and/or focus attention on areas where communication, training, or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders and contribute directly to the improvement of program management. Feedback collected under this generic clearance will provide useful information, but it will not be generalized to the overall population. This data collection will not be used to generate quantitative information that is designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 3000 respondents × 1.5 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 4,500 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $0.

Dated: November 10, 2015.

**Laura Dawkins,**

*Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.*

[FR Doc. 2015–29302 Filed 11–16–15; 8:45 am]

**BILLING CODE 9111–97–P**

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# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR-5835-N-20]**

## 60-Day Notice of Proposed Information Collection: Previous Participation Certification; OMB No.: 2502–0118

**AGENCY:** Office of the Assistant Secretary for Housing- Federal Housing Commissioner, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

**DATES:** *Comments Due Date:* January 19, 2016.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410-5000; telephone 202-402-3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

**FOR FURTHER INFORMATION CONTACT:** Devasia Karimpanal, Business Relations and Oversight Contracts Division, Office of Asset Management and Portfolio Oversight, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; *Devasia.V.Karimpanal@hud.gov* or telephone 202–402–7682 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

## A. Overview of Information Collection

*Title of Information Collection*: Previous Participation Certification

*OMB Approval Number*: 2502–0118

*Type of Request:* Revision of currently approved collection

*Form Number*: HUD Form 2530

*Description of the need for the information and proposed use*: The HUD-2530 process provides review and clearance for participants in HUD's multifamily insured and non-insured projects. The information collected (participants' previous participation record) is reviewed to determine if they have carried out their past financial, legal, and administrative obligations in a satisfactory and timely manner. The HUD-2530 process requires a principal to certify to their prior participation in multifamily projects, and to disclose other information which could affect the approval for the proposed participation.

*Respondents* (*i.e.* affected public): Multifamily project participants such as owners, managers, developers, consultants, general contractors, and nursing home owners and operators.

*Estimated Number of Respondents*: 9,900

*Estimated Number of Responses*: 9,900

*Frequency of Response*: 1

*Average Hours per Response*: Three hours for paper 2530 and 1 hour for electronic 2530

*Total Estimated Burdens*: 17,900

## B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

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

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

**Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: November 10, 2015.

**Janet M. Golrick,**

*Acting Associate General Deputy Assistant, Secretary for Housing-Associate Deputy Federal Housing Commissioner.*

[FR Doc. 2015–29333 Filed 11–16–15; 8:45 am]

BILLING CODE 4210–67–P

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5901–N–01]**

## Notice of Intent To Prepare an Environmental Impact Statement (EIS) For the East Side Coastal Resiliency Project, City of New York, NY

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice of Intent to Prepare an EIS.

**SUMMARY:** The U.S. Department of Housing and Urban Development (HUD) gives notice that the City of New York (the City), through its Office of Management and Budget (OMB), as the ''Responsible Entity,'' as that term is defined by 24 CFR 58.2(a)(7)(i), and as the Lead Agency in accordance with the requirements of the National Environmental Policy Act (NEPA), intends to prepare an Environmental Impact Statement (EIS) that will evaluate the environmental and social impacts of alternatives that are being proposed to improve coastal and social resiliency by installing an integrated flood protection system on the East Side of Southern Manhattan between Montgomery Street on the south and East 23rd Street on the north (with an alternative that extends to East 25th Street). Such measures would be designed to address the impacts of coastal flooding on the quality of the human environment due to both storm hazards and sea level rise. The City, through OMB, is the Grantee of Community Development Block Grant Disaster Recovery (CDBG–DR) funds that have been appropriated under the Disaster Relief Appropriations Act, 2013 (Pub. L. 113–2, approved January 29, 2013) related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster that was declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (Stafford Act) in calendar years 2011, 2012, and 2013. This project includes funds that were awarded as the ''BIG U'' as part of HUD's Rebuild by Design competition.

The proposed EIS will address the environmental review requirements of NEPA, the New York State Environmental Quality Review Act (SEQRA) (6 NYCRR Part 617), and the New York City Environmental Quality Review (CEQR). This Notice of Intent to prepare an EIS is therefore, being published in accordance with the Council on Environmental Quality (CEQ) regulations found at 40 CFR parts 1500–1508 and HUD regulations found at 24 CFR part 58 and is announcing that a public scoping process on the EIS is commencing.

**DATES:** Comments on the Draft Scope of Work to prepare a Draft EIS are requested by this notice and will be accepted until December 21, 2015.

**ADDRESSES:** Comments on the Draft Scope of Work to prepare a Draft EIS are requested by this notice and will be accepted by the individual named in this notice under the heading **FOR FURTHER INFORMATION CONTACT**.

Comments will also be accepted at the joint NEPA/SEQRA/CEQR scoping meeting to be held on December 3, 2015. All comments received by December 21, 2015 will be considered prior to the acceptance, certification, and distribution of the Draft EIS by the Lead Agencies. Commenters are also asked to submit any information related to reports or other environmental studies planned or completed in the project area and major issues that the Draft EIS should consider, and recommend mitigation measures and alternatives associated with the Proposed Action. Federal agencies having jurisdiction by law, special expertise, or other special interest should report their interest and indicate their readiness to aid in the EIS effort as a ''Cooperating Agency.'' The following federal agency has thus far expressed intent to participate as a Cooperating Agency: The United States Army Corps of Engineers (USACE). Written requests of individuals and organizations to participate as Section 106 Consulting Parties may also be made to the individual named in this notice under the heading **FOR FURTHER INFORMATION CONTACT**.

The public and agencies will also be offered an opportunity to comment on the purpose and need, range of alternatives, level of detail, methodologies, and all elements of the Draft Scope of Work through public and agency outreach that will consist of: A public scoping meeting (described below); a public hearing on the Draft EIS; meetings with the applicable Cooperating, Involved, and Interested Agencies; and meetings with Section 106 Consulting Parties, including federally recognized Indian tribes. Once completed and released, the Draft EIS will be available for public and agency review and comment.

Following the public scoping process, a Draft EIS will be prepared that analyzes the Proposed Action. Once the Draft EIS is certified as complete, a notice will then be sent to appropriate government agencies, groups, and individuals known to have an involvement or interest in the Draft EIS and particularly in the environmental impact issues identified therein. A Notice of Availability of the DEIS will be published in the **Federal Register** and local media outlets at that time in accordance with HUD and CEQ regulations. Any person or agency interested in receiving notice and commenting on the Draft Scope of Work or Draft EIS should contact the individual named in this notice under the heading **FOR FURTHER INFORMATION CONTACT** no later than December 21, 2015.

With OMB serving as the Lead Agency, the EIS will be prepared in accordance with NEPA, CEQ regulations found at 40 CFR parts 1500–1508, and HUD regulations found at 24 CFR part 58. In accordance with 42 U.S.C. 5304(g) and HUD's regulations found at 24 CFR part 58 (Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities), HUD has provided for assumption of its NEPA authority and NEPA lead agency responsibility by OMB for the purposes of administering the CDBG–DR Program in New York City. The EIS will also comply, as necessary, with Section 106 of the National Historic Preservation Act, the Clean Water Act, Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,'' Executive Order 11990, ''Protection of Wetlands,'' and other applicable federal, State, and local laws and regulations. (The New York City Department of Parks & Recreation (DPR) will be the Lead Agency for the SEQRA and CEQR processes, which will be coordinated with the NEPA requirements.)

**FOR FURTHER INFORMATION CONTACT:** Further information and a copy of the Draft Scope of Work may be obtained by contacting Calvin Johnson, Assistant Director CDBG–DR, OMB, 255 Greenwich Street, 8th Floor, New York, New York 10007,or via email at *CDBGDR-enviro@omb.nyc.gov.* The Draft Scope of Work is also available on *http://www.nyc.gov/html/cdbg/html/home/home.shtml.*

**SUPPLEMENTARY INFORMATION:**

## Background

The City of New York, acting through OMB, under the authority of HUD's regulations at 24 CFR Part 58, and in cooperation with other Cooperating, Involved, and Interested agencies, is proposing to prepare an EIS that will analyze the potential environmental and social effects of alternatives that are being proposed to improve coastal and social resiliency and reduce coastal flooding impacts on the East Side of Southern Manhattan. This project was awarded $335 million in funds as the ''BIG U'' as part of HUD's Rebuild by Design competition.

The Hurricane Sandy Rebuilding Task Force launched Rebuild by Design in June 2013, a multi-stage regional design competition to promote resilience for the Sandy-affected region. HUD conducted the competition under the authority of the America COMPETES Reauthorization Act of 2010, and administered the competition in partnership with philanthropic, academic, and nonprofit organizations. The goal of the competition was two-fold: To promote innovation by developing regionally-scalable but locally-contextual solutions that increase resilience in the region, and to implement selected proposals with both public and private funding dedicated to this effort. The competition represented a policy innovation as HUD set aside CDBG–DR funding specifically to incentivize implementation of winning projects and proposals. The competition process aimed to strengthen understanding of regional interdependencies, fostering coordination and resilience both at the local level and across the U.S. For more information on the competition, please visit: *http://www.rebuildbydesign.org/.*

Hurricane Sandy significantly impacted the East Side of Manhattan, including the proposed project area (defined above), highlighting existing deficiencies in the City's resiliency and ability to adequately protect vulnerable populations and critical infrastructure from flooding during major storm events. These impacts included extensive inland flooding due to tidal surge with extensive damage to residential and commercial property, impacts to critical health care facilities, and the failure of critical power, transportation, and water and sewer infrastructure. Addressing the vulnerability of the proposed project area to coastal storms and protecting critical infrastructure and resources in light of the likelihood of more frequent and intense flood events is essential to the City's resiliency planning and would align with the Coastal Protection Initiatives as described in the City's *A Stronger, More Resilient New York* report and the goals in the City's *One New York: The Plan for a Strong and Just City (OneNYC)* plan (available at: *http://www.nyc.gov/html/onenyc/downloads/pdf/publications/OneNYC.pdf*). Moreover, urban design features integrated to the proposed flood protection system would enhance access to open spaces along the East River waterfront. The EIS will examine several alternatives aimed at achieving these objectives.

## Purpose and Need of the Proposed Action

The Proposed Action consists of the installation of an integrated flood protection system on the East Side of Southern Manhattan between Montgomery Street on the south and East 23rd Street on the north for the purposes of reducing flood hazards, protecting a diverse and vulnerable

residential population, and safeguarding critical energy, infrastructure, commercial, and transportation assets. Consistent with the City's Coastal Protection Initiatives, the principal goals and objectives of the Proposed Action are:

- Provide a reliable flood protection system for the flood hazard area that lies between East 23rd Street on the north and Montgomery Street on the south;
- Improve access to, and enhance open space resources along the waterfront, including East River Park and Stuyvesant Cove Park;
- Respond quickly to the urgent need for increased flood protection and resiliency, particularly for vulnerable communities within the flood hazard area; and
- Achieve implementation milestones and project funding allocations as established by HUD.

**Project Alternatives**

The Proposed Action is composed of two project areas, Project Area One and Project Area Two. Project Area One extends south from Cherry Street along Montgomery Street to Pier 42 and continues north along the waterfront to East 13th Street. Project Area Two extends from East 13th Street north to East 23rd Street and then west along East 23rd Street to First Avenue. The EIS will discuss the alternative designs for these project areas that were considered for analysis, identify those that were eliminated from further consideration because they do not meet the stated purpose and need, and identify those that will be analyzed further. It is expected that project alternatives will continue to be developed and refined during the public scoping process, with input from the public, agencies, and other stakeholders. The EIS alternatives analysis will consist of a comparison of the impacts under each alternative pursuant to 24 CFR Part 58, as well as how well each alternative achieves the Proposed Action's purpose and need. This process, which will be described in detail in the EIS, will lead to the designation of a Preferred Alternative. At this time, it is anticipated that the following alternatives will be analyzed.

*1. No Action Alternative*

The No Action Alternative assumes that no flood control measures are installed in the proposed project area and that current trends relating to impacts from coastal storms and sea level rise will continue. The No Action Alternative will also assume that Con Edison would continue any planned resiliency projects at its East 14th Street generating station and substations, that Pier 42 at Montgomery Street would continue to be reconstructed as a public open space, that the Houston Street bridge over the FDR Drive would be reconstructed as is currently proposed by the New York City Department of Transportation, and that a number of other projects would be implemented both within and near the proposed project area through the 2022 analysis year.

*2. Flood Protection With Park Improvements Alternative*

To ensure that a flood protection system is feasible and meets the project's purpose and need, various design options for integrated flood protection and enhanced waterfront open space and connections were developed. One of these alternatives is the Flood Protection System with Park Improvements Alternative. This alternative meets the flood protection objectives of the Proposed Action using a combination of integrated flood protection systems that include engineered berms, floodwalls, deployables and drainage improvements, which is expected to include the following.

- Engineered berms (also referred to as a ''bridging berm''). Engineered berms elevate the existing topography as a line of flood protection and, therefore, require a wider space in order to be installed. They are typically constructed of a compacted fill material core, capped by stiff clay to withstand storm waves, with a stabilizing landscaped cover. These berms can be integrated into a park setting and are also considered adaptable to future design needs. Floodwalls (see below) are also used in conjunction with a berm at locations where there are horizontal space limitations. In certain reaches of Project Area One, berms are also combined with neighborhood connections across the FDR Drive to create ''bridging berms'' that provide the dual benefit of improved neighborhood access with flood protection. Engineered berms are proposed to be used for flood protection within East River Park in Project Area One and within Stuyvesant Cove Park in Project Area Two.
- Floodwalls. Floodwalls are narrow, vertical flood protection structures with a below-grade foundation that are designed to withstand both storm surge and waves. They are typically constructed of steel, reinforced concrete, or a combination of materials, with a reinforced concrete cap, and can be integrated as a design feature into a park setting. Floodwalls can be used where there are horizontal space limitations and when there is a design objective to protect existing recreational facilities by narrowing the footprint of the flood protection system. Floodwalls are proposed to be used as flood protection (in combination with berms) along the interior limits of East River Park in Project Area One (adjacent to the FDR Drive) and along the west (or inland) side of the FDR Drive between about East 13th and East 18th Streets in Project Area Two.
- Deployable Systems. It is necessary in many flood protection systems to provide an opening to accommodate day-to-day vehicular or pedestrian circulation along a street or sidewalk, for example. In these instances, deployable systems are used. There are several types of deployable system choices, including swing gates, roller gates, crest gates, and demountable gates. The type of system to be used depends upon a number of factors that include length of the opening that is required. With the Proposed Action, deployable systems are proposed as flood protection along inland streets and sidewalk crossings including the FDR Drive main line and ramps in both Project Area One and Project Area Two, and along East 23rd and East 25th Streets in Project Area Two.
- Sewer System Improvements. An evaluation of the need for modifications to the existing City sewer system will be undertaken to determine the resiliency needs of the proposed project area with respect to the operation of the sewer system during a storm event. Related improvements may include installing gates on sewer interceptors, flood-proofing regulators and manholes, and other improvements that address drainage service during a storm condition as may evolve during the project review.

The Flood Protection with Park Improvements Alternative incorporates a combination of these systems to achieve the flood protection objectives of the Proposed Action, and includes park improvements in East River Park and the reconstruction of Stuyvesant Cove Park. In East River Park, an integrated combination of walls and landscaped berms would be used; the landscaped berms would include enhanced passive spaces, and the existing bikeway and walkway through the park would be reconstructed. In Stuyvesant Cove Park, a berm system would be installed with a reconstructed bikeway and walkway.

**Two Additional Project Alternatives**

Another alternative for analysis is a Flood Protection System with Park and Neighborhood Connection

Improvements. This alternative would also achieve the flood protection objectives of the Proposed Action, but would provide additional park amenities and neighborhood connections including a meandering bikeway and walkway, redesign of several pedestrian bridges, and more extensive landscaped features in East River Park. It would also include the reconstruction of Stuyvesant Cove Park. Key elements of this alternative include enhancing the pedestrian bridges at Delancey, East 6th, and East 10th Streets.

Alternatives will continue to be developed and refined during the EIS scoping process with input and consultation from local, state, and federal agencies that are either involved, interested, or cooperating in this environmental review process. These agencies include, but are not limited to, the New York City Departments of Transportation and Environmental Protection, the New York State Departments of Transportation and Environmental Conservation, and the U.S. Army Corps of Engineers along with input provided by non-agency stakeholders and the general public. It is expected that each of the alternatives selected for analysis in the Draft EIS will include the essential flood protection measures described above, in differing configurations, and with alternative approaches to upland drainage, providing park enhancements and neighborhood connectivity. Each alternative will also incorporate approaches for managing upland drainage, including infrastructure improvements that would address combined sanitary and stormwater drainage and maintain sewer system operations during a storm event.

**Elements Common to Proposed Action Alternatives**

Each of the Proposed Action alternatives would also require water main, sewer, and utility relocations and drainage improvements, an operations and maintenance plan, utility and lighting plans, connections to other flood protection structures (*e.g.,* the protection systems at the Con Edison East River Generating Facility and the United States Department of Veterans Affairs Medical Center on East 23rd Street), and the repair and replacement of parkland and streets affected by construction. Construction activities may also require improvements to waterfront structures, temporary mooring facilities, and limited dredging along the East River to provide barge access during construction.

**Need for the EIS**

The Proposed Action described above has the potential to significantly affect the quality of the environment and an EIS will therefore be prepared in accordance with the requirements of NEPA, SEQRA, and CEQR. Responses to this notice will be used to (1) determine significant environmental issues; (2) assist in developing a range of alternatives to be considered; (3) identify issues that the EIS should address; and (4) identify agencies and other parties that will participate in the EIS process and the basis for their involvement.

**Scoping**

A joint NEPA/SEQRA/CEQR public scoping meeting on the Draft Scope of Work to prepare the Draft EIS will be held on December 3, 2015 at 7:00 p.m. at Bard High School Early College, 525 East Houston Street, New York, NY 10002. As noted above, the Draft Scope of Work is available online at: *http://www.nyc.gov/html/cdbg/html/home/home.shtml.* The public scoping meeting location will be accessible to the mobility-impaired. Interpreter services will be available for the hearing or visually impaired upon advance request. The EIS public scoping meeting will provide an opportunity for the public to learn more about the Proposed Action and provide input to the environmental review process. At the meeting, an overview of the Proposed Action and its alternatives will be presented and members of the public will be invited to comment on the Draft Scope of Work, including the methodologies to be used in developing the environmental analyses in the EIS. Written comments and testimony concerning the Draft Scope of Work will be accepted at this meeting. In accordance with 40 CFR 1501.7, affected Federal, State, and local agencies, any affected Indian tribes, and other interested parties will be sent a scoping notice. In accordance with 24 CFR 58.59, the scoping meeting will be preceded by a notice of public meeting published in the local news media at least 15 days before the hearing date.

**Probable Environmental Effects**

The EIS will evaluate potential effects from the Proposed Action on: Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Environmental Justice; Open Space; Historic and Cultural Resources; Urban Design and Visual Resources; Natural Resources; Hazardous Materials; Water and Sewer Infrastructure; Transportation; Greenhouse Gases and Climate Change; Public Health; Neighborhood Character; Construction; and Cumulative Effects.

Questions may be directed to the individual named in this notice under the heading **FOR FURTHER INFORMATION CONTACT**.

Dated: November 13, 2015.

**Harriet Tregoning,**

*Principal Deputy Assistant, Secretary for Community Planning and Development.*

[FR Doc. 2015–29464 Filed 11–16–15; 8:45 am]

BILLING CODE 4210–67–P

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5831–N–56]**

### 30-Day Notice of Proposed Information Collection: Legal Instructions Concerning Applications for Full Insurance Benefits—Assignment of Multifamily Mortgages to the Secretary

**AGENCY:** Office of the Chief Information Officer, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

**DATES:** *Comments Due Date:* December 17, 2015

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

**FOR FURTHER INFORMATION CONTACT:** Colette Pollard, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on September 10, 2015 at 80 FR 54587.

**A. Overview of Information Collection**

*Title of Information Collection:* Legal Instructions Concerning Applications for Full Insurance Benefits—Assignment of Multifamily Mortgage to the Secretary.

*OMB Approval Number:* 2510–0006.

*Type of Request:* Extension of a currently approved collection.

*Form Number:* N/A.

*Description of the need for the information and proposed use:* Mortgagees of HUD-insured mortgages may receive mortgage insurance benefits upon assignment of mortgages to HUD. In connection with the assignment, legal documents (*e.g.,* mortgage, mortgage note, security agreement, title insurance policiy) must be submitted to the Department. The instructions contained in the Legal Instructions Concerning Applications for Full Insurance Benefits—Assigment of Multifamily Mortgage describe the documents to be submitted and the procedures for submission.

The Legal Instructions Concerning Applications for Full Insurance Benefits—Assigment of Multifamily Mortgage, in its current form and structure, can be found at *http://intraportal.hud.gov/hudportal/documents/huddoc?id=leginstrfullinsben.pdf.*

HUD proposes to make the following revisions to this document:

Under Part B, Submissions of Legal Documents after Recordation of Assignment, HUD proposes to add a new paragraphs 12 and 13 to read as follows:

12. *Flood Insurance.* If all or part of the building(s) included within the project are in a Special Flood Hazard Area (SFHA), acceptable proof of flood insurance coverage. This can be either the original flood insurance policy covering the building(s), a copy of the Flood Insurance Application and premium payment, a copy of the declarations page, or evidence of flood insurance, comprising flood insurance coverage equal to the lesser of the insurable value of the building(s) or the maximum amount of coverage available for that type of property under the National Flood Insurance Program (''NFIP'') (see *www.fema.gov/business/nfip/manual.shtm*). The flood insurance should name the mortgagee and the Secretary of Housing and Urban Development of Washington, DC, his/her successors and assigns as mortgagee and loss payee respectively. The flood insurance must be in effect at least through 11:59 p.m. on the date on which the assignment of mortgage is recorded. In addition, if the mortgagee submits evidence of flood insurance, the mortgagee must submit an affidavit that contains the following language and is otherwise acceptable to HUD:

[Insert name of the mortgagee] affirms under penalty of law that the [describe flood insurance policy by name of insurance company or producer and policy number] described in the [Evidence of Insurance or other document name, as applicable] is in full force and effect and names the Secretary of Housing and Urban Development, of Washington, DC, his/her successors and assigns, 451 Seventh Street SW., Room 9230, Washington, DC 20410–0500 as loss payee as of [insert the date of assignment].

The effective date of this endorsement and mortgagee's affidavit, if applicable, should be the date the assignment of mortgage to the Secretary is filed for record. The evidence of flood insurance is acceptable if it contains language to the effect that it is for informational purposes only and does not confer rights upon the holder of the policy only if accompanied by the mortgagee's affidavit. A Certificate of Insurance is not acceptable.

13. An assignment of the mortgagee's interest in the flood insurance policy should state the following:

The interest of ________, as the Mortgagee under Policy No. ________i issued by ________i is hereby assigned to the Secretary of Housing and Urban Development of Washington, DC, his/her successors and assigns. Date: ______

Existing paragraphs 12 through 16 would be unchanged except for being redesignated paragraaphs 14 through 18.

*Agency form numbers, if applicable:* N/A.

*Members of affected public:* Mortgagees when applying for insurance benefits from HUD.

*Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:*

| Number of respondents | Burden hours | Frequency of response | Total burden hours |
|---|---|---|---|
| 359 | 26 | 1 | 9,334 |

**B. Solicitation of Public Comment**

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

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

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

**C. Authority:** 12 U.S.C. 1701z–1 Research and Demonstrations.

Dated: November 10, 2015.

**Colette Pollard,**

*Department Reports Management Officer, Office of the Chief Information Officer.*

[FR Doc. 2015–29332 Filed 11–16–15; 8:45 am]

BILLING CODE 4210–67–P

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**[Docket No. FR–5830–N–08]**

## 60 Day Notice of Proposed Information Collection: Comment Request; Notice of Application for Designation as a Single Family Foreclosure Commissioner

**AGENCY:** Office of the General Counsel, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice

is to allow for 60 days of public comment.

**DATES:** *Comments Due Date:* January 19, 2016.

**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: Nacheshia Foxx, Reports Liaison Officer, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500.

**FOR FURTHER INFORMATION CONTACT:** Camille Acevedo, Associate General Counsel, Legislation and Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10282, Washington, DC 20410–0500, telephone (202 708–1793) (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

**A. Overview of Information Collection**

*Title of Information Collection:* Notice of Application for Designation As a Single Family Foreclosure Commissioner (SF Mortgage Foreclosure Act of 1994).

*OMB Control Number:* 2510–0012.

*Description of the need for the information and proposed use:* Under the Single Family Mortgage Foreclsoure Act of 1994, HUD may exercise a nonjudicial Power of Sale of single family HUD-held mortgages and may appoint Foreclsoure Commissioners to do this. HUD needs the Notice and resulting appliations for compliance with the Act's requirements that commissioners be qualified. Most respondents will be attorneys, but anyone may apply.

*Agency form numbers, if applicable:* None.

*Members of affected public:* Business or Other For-Profit and Individuals or Households.

*Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:*

| Number of respondents | Frequency of response | Hours per response | Total burden hours |
|---|---|---|---|
| 30 | 1 | .5 | 15 |

*Status of the proposed information collection:* Reinstatement of collection.

**B. Solicitation of Public Comment**

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

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

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

**Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: November 6, 2015.

**Camille E. Acevedo,**

*Associate General Counsel for Legislation and Regulations.*

[FR Doc. 2015–29331 Filed 11–16–15; 8:45 am]

BILLING CODE 4210–67–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–R2–ES–2015–N207]; [FXES11130200000–167–FF02ENEH00]**

### Endangered and Threatened Species Permit Applications

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of receipt of applications; request for public comment.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered or threatened species. The Endangered Species Act of 1973, as amended (Act), prohibits activities with endangered and threatened species unless a Federal permit allows such activities. Both the Act and the National Environmental Policy Act require that we invite public comment before issuing these permits.

**DATES:** To ensure consideration, written comments must be received on or before December 17, 2015.

**ADDRESSES:** Susan Jacobsen, Chief, Division of Classification and Restoration, by U.S. mail at Division of Classification and Recovery, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, NM 87103; or by telephone at 505–248–6920. Please refer to the respective permit number for each application when submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Susan Jacobsen, Chief, Division of Classification and Restoration, by U.S. mail at P.O. Box 1306, Albuquerque, NM 87103; or by telephone at 505–248–6920.

**SUPPLEMENTARY INFORMATION:** The Act (16 U.S.C. 1531 *et seq.*) prohibits activities with endangered and threatened species unless a Federal permit allows such activities. Along with our implementing regulations in the Code of Federal Regulations (CFR) at 50 CFR part 17, the Act provides for permits, and requires that we invite public comment before issuing these permits.

A permit granted by us under section 10(a)(1)(A) of the Act authorizes applicants to conduct activities with U.S. endangered or threatened species for scientific purposes, enhancement of survival or propagation, or interstate commerce. Our regulations regarding implementation of section 10(a)(1)(A) permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

**Applications Available for Review and Comment**

We invite local, State, Tribal, and Federal agencies and the public to comment on the following applications. Please refer to the appropriate permit number (*e.g.,* Permit No. TE–123456) when requesting application documents and when submitting comments.

Documents and other information the applicants have submitted with these applications are available for review, subject to the requirements of the

Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552).

*Permit TE–841359*

*Applicant:* U.S. Forest Service—Gila National Forest, Silver City, New Mexico.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys of the following species in Arizona:

- Southwestern willow flycatcher (*Empidonax traillii extimus*)
- Gila chub (*Gila intermedia*)
- Loach minnow (*Tiaroga cobitis*)
- Spikedace (*Meda fulgida*)

*Permit TE–78250B*

*Applicant:* Erin Hatchett, Fort Worth, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys of black-capped vireo (*Vireo atricapilla*), golden-cheeked warbler (*Dendroica chrysoparia*), and southwestern willow flycatcher (*Empidonax traillii extimus*) within Arizona, New Mexico, Texas, Colorado, and Utah.

*Permit TE–78414B*

*Applicant:* Antoinette Taylor, Austin, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys of black-capped vireo (*Vireo atricapilla*) and golden-cheeked warbler (*Dendroica chrysoparia*) within Texas and Oklahoma.

*Permit TE–800611*

*Applicant:* SWCA Environmental Consultants, San Antonio, Texas.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct salvage, transportation, research, and captive husbandry of the following species within Texas:

- Peck's Cave amphipod (*Stygobromus [=Stygonectes] pecki*)
- Comal Springs dryopid beetle (*Stygoparnus comalensis*)
- Comal Springs riffle beetle (*Heterelmis comalensis*)
- Fountain darter (*Etheostoma fonticola*)
- San Marcos gambusia (*Gambusia georgei*)
- Texas blind salamander (*Typhlomolge rathbuni*)
- Texas wild-rice (*Zizania texana*)

*Permit TE–78168B*

*Applicant:* Rachel McMath, Abilene, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for black-capped vireo (*Vireo atricapilla*) within Texas.

*Permit TE–778582B*

*Applicant:* Richard Dolman, Abilene, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for black-capped vireo (*Vireo atricapilla*) within Texas.

*Permit TE–78170B*

*Applicant:* Kendra Clardy, Abilene, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for black-capped vireo (*Vireo atricapilla*) within Texas.

*Permit TE–85077A*

*Applicant:* Zara Environmental LLC, Manchaca, Texas.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct salvage, transportation, research, and captive husbandry of the following species within Texas:

- Beetle (*Rhadine exilis*)
- Beetle (*Rhadine infernalis*)
- Helotes mold beetle (*Batrisodes venyivi*)
- Cokendolpher Cave harvestman (*Texella cokendolpheri*)
- Robber Baron Cave meshweaver (*Cicurina baronia*)
- Madla's Cave meshweaver (*Cicurina madla*)
- Bracken Bat Cave meshweaver (*Cicurina venii*)
- Government Canyon Bat Cave meshweaver (*Cicurina vespera*)
- Government Canyon Bat Cave spider (*Neoleptoneta microps*)
- Tooth Cave spider (*Leptoneta myopica*)
- Tooth Cave pseudoscorpion (*Tartarocreagris texana*)
- Bee Creek Cave harvestman (*Texella reddelli*)
- Kretschmarr Cave mold beetle (*Texamaurops reddelli*)
- Tooth Cave ground beetle (*Rhadine persephone*)
- Bone Cave harvestman (*Texella reyesi*)
- Coffin Cave mold beetle (*Batrisodes texanus*)
- Comal Springs dryopid beetle (*Stygoparnus comalensis*)
- Peck's Cave amphipod (*Stygobromus [=Stygonectes] pecki*)
- Comal Springs riffle beetle (*Heterelmis comalensis*)
- Black-capped vireo (*Vireo atricapilla*)
- Golden-cheeked warbler (*Dendroica chrysoparia*)
- Barton Springs salamander (*Eurycea sosorum*)
- Texas blind salamander (*Typhlomolge rathbuni*)
- Austin blind salamander (*Eurycea waterlooensis*)
- Fountain darter (*Etheostoma fonticola*)
- San Marcos gambusia (*Gambusia georgei*)
- Texas wild-rice (*Zizania texana*)

*Permit TE–34030A*

*Applicant:* Dustin McBride, Grapevine, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for Houston toad (*Bufo houstonensis*) within Texas.

*Permit TE–44542B*

*Applicant:* Olsson Associates, Oklahoma City, Oklahoma.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct presence/absence surveys of American burying beetle (*Nicrophorus americanus*) within Oklahoma and Nebraska.

*Permit TE–783902B*

*Applicant:* Kristy Cosby, Pawhuska, Oklahoma.

Applicant requests a new for research and recovery purposes to conduct presence/absence surveys of American burying beetle (*Nicrophorus americanus*) within Oklahoma.

*Permit TE–78959A*

*Applicant:* Sarah Anne Weber, Spring Branch, Texas.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct presence/absence surveys for black-capped vireo (*Vireo atricapilla*) within Texas.

*Permit TE–039466*

*Applicant:* USGS—Idaho Cooperative Fish and Wildlife Research Unit, Moscow, Idaho.

Applicant requests an amendment to a current permit for research and recovery purposes to trap, band, and attach radio transmitters to Yuma clapper rails (*Rallus longirostris yumanensis*) within Arizona and California.

**National Environmental Policy Act (NEPA)**

In compliance with NEPA (42 U.S.C. 4321 *et seq.*), we have made an initial determination that the proposed activities in these permits are

categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement (516 DM 6 Appendix 1, 1.4C(1)).

**Public Availability of Comments**

All comments and materials we receive in response to this request will be available for public inspection, by appointment, during normal business hours at the address listed in the ADDRESSES section of this notice.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Authority:** We provide this notice under section 10 of the Act (16 U.S.C. 1531 *et seq.*).

Dated: November 5, 2015.

**Joy E. Nicholopoulos,**

*Acting Regional Director, Southwest Region, U.S. Fish and Wildlife Service.*

[FR Doc. 2015–29291 Filed 11–16–15; 8:45 am]

BILLING CODE 4333–15–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–HQ–ES–2015–N196; FF09E15000–FXHC112509CBRA1–167]**

### John H. Chafee Coastal Barrier Resources System; Availability of Draft Maps for Alabama, Florida, Georgia, Louisiana, Michigan, Minnesota, Mississippi, New York, Ohio, and Wisconsin; Request for Comments

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** The Coastal Barrier Resources Act (CBRA) requires the Secretary of the Interior (Secretary) to review the maps of the John H. Chafee Coastal Barrier Resources System (CBRS) at least once every 5 years and make any minor and technical modifications to the boundaries of the CBRS as are necessary to reflect changes that have occurred in the size or location of any CBRS unit as a result of natural forces. The U.S. Fish and Wildlife Service (Service) has conducted this review and has prepared draft revised maps for all of the CBRS units in Alabama, all units in Florida (except for one unit that was remapped in 2014), all units in Georgia, several units in Louisiana, all units in Michigan, the only unit in Minnesota, all units in Mississippi, all units in the Great Lakes region of New York, all units in Ohio, and all units in Wisconsin. The draft maps were produced by the Service as part of a CBRS ''digital conversion'' project that is done in partnership with the Federal Emergency Management Agency (FEMA). This notice announces the findings of the Service's review and request for comments on the draft revised maps from Federal, State, and local officials.

**DATES:** To ensure consideration, the Service must receive written comments by December 17, 2015.

**ADDRESSES:** Mail comments to Katie Niemi, Coastal Barriers Coordinator, U.S. Fish and Wildlife Service, Ecological Services Program, 5275 Leesburg Pike, MS: ES, Falls Church, VA 22041, or send comments by electronic mail (email) to *CBRAcomments@fws.gov.*

**FOR FURTHER INFORMATION CONTACT:** Katie Niemi, Coastal Barriers Coordinator; (703) 358–2071 (telephone); or *CBRA@fws.gov* (email).

**SUPPLEMENTARY INFORMATION:**

**Background**

Background information on the CBRA (16 U.S.C. 3501 *et seq.*) and the CBRS, as well as information on the digital conversion effort and the methodology used to produce the revised maps, can be found in a notice the Service published in the **Federal Register** on August 29, 2013 (78 FR 53467).

For information on how to access the draft revised maps, see the Availability of Draft Maps and Related Information section below.

**Proposed Modifications to the CBRS Boundaries**

This notice fulfills a requirement under the CBRA (16 U.S.C. 3503(f)(3)) that the Secretary publish a notice in the **Federal Register** of any proposed revisions to the CBRS to reflect: (1) Changes that have occurred to the CBRS as a result of natural forces (*e.g.,* erosion and accretion); (2) voluntary additions to the CBRS requested by property owners; or (3) additions of excess Federal property to the CBRS (as authorized under 16 U.S.C. 3503(c)–(e)).

The Service's review of all of the CBRS units in Alabama, all units in Florida (except for one unit that was remapped in 2014), all units in Georgia, several units in Louisiana, all units in Michigan, the only unit in Minnesota, all units in Mississippi, all units in the Great Lakes region of New York, all units in Ohio, and all units in Wisconsin resulted in a set of 205 draft revised maps, dated August 14, 2015, depicting a total of 250 CBRS units. The set of maps includes 9 maps for 10 CBRS units located in Alabama, 93 maps for 128 CBRS units located in Florida, 16 maps for 13 CBRS units located in Georgia, 15 maps for 7 CBRS units located in Louisiana, 36 maps for 46 CBRS units located in Michigan, 1 map for 1 CBRS unit located in Minnesota, 9 maps for 7 CBRS units located in Mississippi, 14 maps for 21 CBRS units located in the Great Lakes region of New York, 7 maps for 10 CBRS units located in Ohio, and 5 maps for 7 CBRS units located in Wisconsin. The Service's review of these areas found a total of 136 CBRS units that require modifications due to natural changes in the size or location of the units since they were last mapped. The Service's review of these areas also found two CBRS units that require modifications to correct administrative errors that were made in the past, on maps for Santa Rosa County, Florida, and Jackson County, Mississippi.

Following the close of the comment period on the date listed in the DATES section of this document, the Service will review all comments received from Federal, State, and local officials on the draft maps; make adjustments to the draft maps, as appropriate; and publish a notice in the **Federal Register** to announce the availability of the final revised maps.

Below is a summary of the changes depicted on the draft revised maps.

*Alabama*

The Service's review found 6 of the 10 CBRS units in Alabama to have changed due to natural forces.

AL–01P: PERDIDO KEY UNIT. A portion of the northern boundary of the unit has been modified to account for erosion along the shoreline of Old River. The western boundary of the unit has been modified to account for both erosion and accretion around Florida Point.

Q01: MOBILE POINT UNIT. There are five discrete segments of Unit Q01, but modifications to account for natural changes were only necessary in the largest segment. The southern boundary of the excluded area has been modified to account for erosion along the shoreline.

Q01P: MOBILE POINT UNIT. There are four discrete segments of Unit Q01P, but modifications to account for natural changes were only necessary in the two eastern segments. In the easternmost segment of the unit, the eastern boundary has been modified to account for shoreline erosion along Oyster Bay. In the eastern central segment of the unit, the southern boundary of the excluded area has been modified to account for

shoreline erosion, and the boundary following the northern edge of Little Lagoon has been modified to account for natural changes that have occurred in the configuration of the shoreline.

Q01A: PELICAN ISLAND UNIT. The landward boundary of the unit located west of the Isle Dauphine Golf Club has been extended northward and westward to account for the migration of Pelican Island into Dauphin Island.

Q02: DAUPHIN ISLAND UNIT. In the eastern segment of the unit, located north of Fort Gaines, a portion of the boundary has been modified to account for wetlands erosion along the western side of an unnamed channel located landward of the southern portion of Little Dauphin Island. In the western segment of the unit, located on the west end of Dauphin Island, the northern boundary has been moved further north to account for the migration of the island. The western boundary has been moved further west to account for accretion at the western tip of the island.

Q02P: DAUPHIN ISLAND UNIT. The portions of the boundary encompassing the area near North Point and along the Dauphin Island Bridge have been expanded to accommodate accreting sand and submerged shoals around the northwestern portion of Little Dauphin Island.

*Florida*

The Service's review found 68 of the 128 CBRS units in Florida that are included in this review to have changed due to natural forces. Additionally, the Service's review found that one of these units, FL–99, contained an administrative error that was made by the Service in 1997.

Unit FL–87P, the only Florida CBRS unit not included in this review, was remapped and referenced in notices the Service published in the **Federal Register** on August 29, 2013 (78 FR 53467) and April 17, 2014 (79 FR 21787).

FL–03P: GUANA RIVER UNIT. The boundary of the unit has been modified to follow the shoreline at the northeastern portion of Capos Island. The boundary has been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface around portions of Lake Ponte Vedra and east of Guana River. A portion of the landward boundary near Spanish Landing has been modified to account for channel migration along the Tolomato River as visible on the new CBRS base map. The southwestern portion of the landward boundary of the unit has been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface.

FL–06P: WASHINGTON OAKS UNIT. The northwestern portion of the landward boundary of the unit has been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface.

FL–14P: PEPPER BEACH UNIT. There are two discrete segments of Unit FL–14P. Within the northern segment, primarily the Indian River Aquatic Preserve, the southern boundary has been modified along Fort Pierce Cut to reflect natural changes that have occurred in the configuration of the shoreline.

FL–16P: JUPITER BEACH UNIT. A portion of the western boundary of the unit has been modified to reflect natural changes that have occurred in the configuration of the shoreline of an unnamed channel near Jupiter Beach Park. A portion of the northern boundary has been modified to reflect natural changes that have occurred in the configuration of the shoreline of Jupiter Inlet.

FL–35: NORTH KEY LARGO UNIT. Portions of the landward boundary of the unit have been modified to reflect natural changes that have occurred in the configuration of the mangroves and the shoreline along Little Card Sound. Portions of the boundaries that are coincident with Unit FL–35P have been modified to reflect natural changes that have occurred in the configuration of the mangroves and shoreline along Linderman Creek, Card Sound, Barnes Sound, and the Atlantic Ocean. Portions of the boundary coincident with Unit FL–36P have been modified to reflect natural changes that have occurred in the configuration of the mangroves and shoreline along El Radabob Key.

FL–35P: NORTH KEY LARGO UNIT. There are seven discrete segments of Unit FL–35P, but modifications to account for natural changes were only necessary in five of the segments. The boundaries of the unit are primarily coincident with those of Unit FL–35. In the northernmost segment of the unit, located on Linderman Key, a portion of the boundary has been modified to reflect natural changes that have occurred in the configuration of the mangroves and shoreline along Card Sound. In the next segment to the south, a portion of the boundary has been modified to reflect natural changes that have occurred in the configuration of the mangroves and shoreline along Linderman Creek. The western boundary of this same segment has been modified to reflect natural changes that have occurred in the configuration of the mangroves and shoreline along Card Sound. Portions of the central segment, comprised largely of Crocodile Lake National Wildlife Refuge, have been modified to reflect natural changes that have occurred in the configuration of the shoreline along the Atlantic Ocean and Barnes Sound. In the two southernmost segments of Unit FL–35P, portions of the boundaries have been modified to reflect natural changes that have occurred in the configuration of the mangroves and shoreline along the Atlantic Ocean. The lateral boundaries of the central segment have been extended to clarify the extent of the unit.

FL–36P: EL RADABOB KEY UNIT. Portions of the western boundary of the unit have been modified to reflect natural changes that have occurred in the configuration of the mangroves and shoreline along Largo Sound. Portions of the boundary coincident with Unit FL–35 have been modified to reflect natural changes that have occurred in the configuration of the mangroves and shoreline along El Radabob Key.

FL–37: RODRIGUEZ KEY UNIT. A portion of the landward boundary of the unit has been modified to account for shoreline erosion along the Atlantic Ocean.

FL–39: TAVERNIER KEY UNIT. A portion of the northeastern boundary of the unit has been modified to account for emergent mangroves along Plantation Key. A boundary segment was added to the lateral boundaries to clarify that Tavernier Key is located within the unit.

FL–44: TOMS HARBOR KEYS UNIT. Portions of the landward boundary of the unit have been modified to reflect natural changes in the configuration of the mangroves and shoreline along Toms Harbor.

FL–47P: KEY DEER/WHITE HERON UNIT. There are 15 discrete segments of Unit FL–47P, but modifications to account for natural changes were only necessary in 4 segments. Portions of the boundary of the largest segment of the unit were modified to account for natural changes that have occurred in the configuration of the shoreline along Cudjoe Key. Portions of the boundary that are coincident with Unit FL–52 have been modified to account for natural changes that have occurred in the configuration of the shoreline along Big Torch Key. In a central segment, located between Little Knockemdown Key and Summerland Key, portions of the boundary that are coincident with Unit FL–52 have been modified to account for natural changes that have occurred in the configuration of the shoreline. Portions of the boundary, located in Upper Sugarloaf Sound, have been modified to account for natural changes in the configuration of the shoreline along Buttonwood Key.

FL–50: NO NAME KEY UNIT. Portions of the western boundary of the unit have been modified to account for natural changes in the configuration of the shoreline along Big Pine Key.

FL–51: NEWFOUND HARBOR KEYS UNIT. A portion of the eastern boundary of the unit has been modified to account for changes in the configuration of the mangroves and shoreline of an unnamed island located west of Long Beach.

FL–52: LITTLE KNOCKEMDOWN/TORCH KEYS COMPLEX UNIT. There are two discrete segments of Unit FL–52, but modifications to account for natural changes were only necessary in the northern segment. A portion of the eastern boundary following Niles Channel, which is coincident with the excluded area, has been modified to account for natural changes that have occurred in the configuration of the shoreline. Portions of the northern boundary that are coincident with Unit FL–47P have been modified to account for natural changes that have occurred in the configuration of the shoreline along Big Torch Key. A portion of the southern boundary has been modified to reflect natural changes in the configuration of the mangroves and shoreline along Summerland Key. Portions of the boundary that are coincident with Unit FL–47P, located between Little Knockemdown Key and Summerland Key, have been modified to account for natural changes that have occurred in the configuration of the shoreline.

FL–54: SUGARLOAF SOUND UNIT. There are four discrete segments of Unit FL–54, but modifications to account for natural changes were only necessary in the two western segments. In both western segments of the unit, portions of the boundary have been modified to reflect natural changes in the configuration of the shoreline along Lower Sugarloaf Sound.

FL–55: SADDLEBUNCH KEYS UNIT. There are two discrete segments of Unit FL–55. In the northern segment of the unit, portions of the boundary have been modified to account for shoreline erosion along the western side of Shark Key. In the southern segment of the unit, portions of the boundary have been modified to reflect natural changes that have occurred in the configuration of the mangroves and shoreline along Geiger Key.

FL–63P: TIGERTAIL UNIT. The lateral boundaries of the unit have been extended offshore to clarify the extent of the unit. No modifications were made to the boundaries of this unit as a result of changes due to natural forces.

FL–65P: WIGGINS PASS UNIT. A portion of the landward boundary of the unit has been modified to account for natural changes that have occurred along Vanderbilt Channel.

FL–67: BUNCHE BEACH UNIT. The northern boundary of the unit has been modified to account for natural changes that have occurred in the configuration of an unnamed channel south of Big Shell Island. A portion of the western boundary has been extended westward to account for the migration of the sand sharing system in San Carlos Bay. The name of this unit has been changed from ''Bunch Beach'' to ''Bunche Beach'' to correct a spelling error.

FL–80P: PASSAGE KEY UNIT. The northern and southern lateral boundaries of the unit have been extended westward and the southern lateral boundary has been moved southward to ensure that all of the shoals are clearly within the unit.

FL–81: EGMONT KEY UNIT. The boundary of the southern segment of the unit has been modified to account for natural changes that have occurred along the shoreline of Egmont Key.

FL–81P: EGMONT KEY UNIT. The landward boundary of the unit has been modified to account for natural changes that have occurred in the configuration of the shoreline along Egmont Key. The southern boundary has been moved southward to include more of the sand sharing system associated with Egmont Key.

FL–83: COCKROACH BAY UNIT. Portions of the landward boundary of the unit have been modified to account for natural changes that have occurred in the configuration of the wetland/fastland interface.

FL–86P: CALADESI/HONEYMOON ISLANDS UNIT. A portion of the northern boundary of the unit has been moved northward to include more of the sand sharing system associated with Honeymoon Island. A portion of the southern boundary that is coincident with Unit P24A has been modified to account for accretion and to include the associated aquatic habitat at the northern tip of Clearwater Beach Island.

FL–89: PENINSULA POINT UNIT. The landward boundary and the western lateral boundary of the unit have been moved further north and west to account for accretion at the western tip of Peninsula Point. The southern lateral boundary of the unit has been extended offshore to clarify the extent of the unit.

FL–94: DEER LAKE COMPLEX. The westernmost portion of the landward boundary of the unit has been modified to reflect natural changes in the wetlands along the shoreline of an unnamed pond. The boundary following the eastern shoreline of Deer Lake and the boundary along the central segment of the unit have been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface.

FL–96: DRAPER LAKE UNIT. A portion of the landward boundary of the unit has been modified to reflect natural changes in the shoreline of Draper Lake.

FL–97: NAVARRE BEACH UNIT. The landward boundary of the unit has been modified to account for shoreline erosion along the northern side of Santa Rosa Sound.

FL–98P: SANTA ROSA ISLAND UNIT. A portion of the boundary in Pensacola Bay, located northwest of Fort Pickens, has been moved northward to account for accretion at the western tip of Santa Rosa Island.

FL–99: TOM KING UNIT. An approximately 750 foot long portion of the boundary of the unit located along the shoreline of East Bay north of Tom King Bayou has been modified to correct an administrative error in the transcription of the boundary from the prior CBRS map dated October 24, 1990, to the official map dated July 12, 1996, for this unit. The boundary on the official 1996 map was placed approximately 130 feet too far inland, and incorrectly included four homes within the unit. This correction is supported by an assessment of the historical CBRS maps for this area, the draft map of Unit FL–99 included in the Service's *1988 Report to Congress: Volume 15, Florida (West Coast),* the Service's 1994 *Coastal Barrier Resources System Photographic Atlas: Florida, Volume 13, Panama City, Part II,* and the legislative history of the Coastal Barrier Improvement Act (CBIA) (Pub. L. 101–591). Structures remain within other portions of Unit FL–99 that were not affected by this transcription error. No modifications were made to the boundaries of this unit as a result of changes due to natural forces.

FL–100: TOWN POINT UNIT. The eastern and western lateral boundaries of the unit have been extended offshore to clarify that the shoals north of Town Point in Pensacola Bay are within the unit. No modifications were made to the boundaries of this unit as a result of changes due to natural forces.

FL–101: GARCON POINT UNIT. A portion of the landward boundary of the unit has been modified to account for natural changes that have occurred in the wetlands. A portion of the northern boundary of the unit has been modified to account for erosion along the shoreline of East Bay and natural changes that have occurred in the configuration of the wetland/fastland interface. An offshore boundary has been added in East Bay and the western lateral boundary of the unit has been extended offshore to clarify the extent of the unit.

FL–102: BASIN BAYOU UNIT. A portion of the boundary along Escambia Bay has been modified to account for erosion along the shoreline.

FL–103P: PERDIDO KEY UNIT. A portion of the landward boundary at the eastern end of the unit has been moved northward to account for accretion on the northeastern side of Perdido Key.

P02: TALBOT ISLANDS COMPLEX. The northern portion of the boundary has been modified to account for channel migration along Sawpit Creek and Gunnison Cut. The southern portion of the boundary has been modified to account for channel migration along Haulover Creek and to follow the shoreline along Batten Island. The west central portion of the coincident boundary between Units P02 and P02P has been modified to account for channel migration along Myrtle Creek.

P02P: TALBOT ISLANDS COMPLEX. The west central portion of the coincident boundary between Units P02 and P02P has been modified to account for channel migration along Myrtle Creek.

P04A: USINA BEACH UNIT. The landward boundary of the unit has been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface. The northern portion of the boundary has been modified to account for channel migration along Robinson Creek. The name of this unit has been changed from ''Usinas Beach'' to ''Usina Beach'' to correct a spelling error.

P05: CONCH ISLAND UNIT. The landward boundary of the unit and a portion of the coincident boundary between Units P05 and P05P have been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface.

P05P: CONCH ISLAND UNIT. A portion of the coincident boundary between Units P05 and P05P has been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface.

P05A: MATANZAS RIVER UNIT. A portion of the landward boundary of the unit has been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface. The western portion of the excluded area boundary along Rattlesnake Island has been modified to reflect natural changes that have occurred in the configuration of a portion of shoreline along the Intracoastal Waterway.

P07: ORMOND–BY–THE–SEA UNIT. A portion of the landward boundary of the unit has been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface.

P08: PONCE INLET UNIT. The southeastern portion of the boundary has been modified to include the sand sharing system as visible on the new CBRS base map. A portion of the western boundary has been modified to reflect natural changes that have occurred in the configuration of the shoreline along Leon Cut. The northwestern portion of the boundary has been modified to follow the center of the Spruce Creek channel.

P09A: COCONUT POINT UNIT. The eastern portions of the two excluded areas

have been modified to reflect natural changes that have occurred in the configuration of the shoreline of the Atlantic Ocean. The western portions of the two excluded areas have been modified to reflect natural changes that have occurred in the shoreline of Indian River. The landward boundary of the unit has been modified to reflect natural changes that have occurred in the configuration of the shoreline of Indian River.

P10A: BLUE HOLE UNIT. The southwestern portion of the landward boundary of the unit has been modified to reflect natural changes that have occurred in the configuration of the shoreline of an unnamed channel. The western portion of the landward boundary of the unit has been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface. The eastern and western excluded area boundaries have been modified to reflect natural changes that have occurred in the configuration of the shoreline of the Atlantic Ocean and Blue Hole Creek.

P11: HUTCHINSON ISLAND UNIT. The eastern boundaries of the two excluded areas have been modified to reflect natural changes that have occurred in the configuration of the shoreline of the Atlantic Ocean. The landward boundary of the unit and western boundary of the northern excluded area have been modified to reflect natural changes that have occurred in the configuration of the shoreline of Indian River.

P12P: HOBE SOUND UNIT. A portion of the northwestern boundary of the unit has been modified to reflect natural changes that have occurred in the configuration of the shoreline of Great Pocket. A portion of the southwestern boundary has been modified to reflect natural changes that have occurred in the configuration of the shoreline of Peck Lake. A portion of the southwestern boundary has been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface west of Peck Lake.

P15: CAPE ROMANO UNIT. The southern boundary and portions of the northern boundary of the unit have been modified to include more of the sand sharing system.

P16: KEEWAYDIN ISLAND UNIT. A portion of the southeastern boundary of the unit has been modified to account for natural changes in the configuration of an unnamed channel north of the Isles of Capri. A portion of the southwestern boundary has been modified to account for natural changes that have occurred in the configuration of the shoreline and associated aquatic habitat along the northwestern portion of Marco Island known as Sand Dollar Island. The lateral boundaries have been extended offshore to clarify the extent of the unit.

P17: LOVERS KEY COMPLEX. Portions of the landward boundary of the unit have been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface. The boundary coincident with Unit P17P has been modified to account for natural changes that have occurred in the configuration of the shoreline. The southwestern lateral boundary has been modified to account for erosion of the sand spit along Big Hickory Pass.

P17A: BOWDITCH POINT UNIT. The name of this unit has been changed from ''Bodwitch Point'' to ''Bowditch Point'' to correctly identify the underlying barrier feature. No modifications were made to the boundaries of this unit as a result of changes due to natural forces.

P17P: LOVERS KEY COMPLEX. The boundary of the unit that is coincident with Unit P17 has been modified to account for natural changes that have occurred in the configuration of the shoreline.

P18: SANIBEL ISLAND COMPLEX. The southern boundary of the unit has been extended southwestward to account for accretion which resulted in connecting the sand sharing system of an emerging island to Albright Key.

P18P: SANIBEL ISLAND COMPLEX. There are seven discrete segments of Unit P18P, but modifications to account for natural changes were only necessary in one segment that is located just south of Captiva Island and Unit P18 along the Gulf of Mexico shoreline of Sanibel Island. A portion of the landward boundary of this segment has been modified to reflect natural changes that occurred in the configuration of an unnamed channel between Silver Key and Bowmans Beach County Park.

P19: NORTH CAPTIVA ISLAND UNIT. Portions of the boundaries that are coincident with Unit P19P have been modified to account for natural changes that have occurred in the configuration of the shoreline along North Captiva Island. The northern boundary that is coincident with Unit P20 has been moved northward to account for shoreline erosion at the southern tip of Cayo Costa.

P19P: NORTH CAPTIVA ISLAND UNIT. There are 16 discrete segments of Unit P19P that are all coincident with Unit P19. Portions of two discrete segments were combined and modified to account for natural changes that have occurred in the configuration of the shoreline along North Captiva Island.

P20: CAYO COSTA UNIT. A portion of the eastern boundary of the unit has been modified to account for natural changes that occurred in the configuration of the shoreline along Useppa Island. The northern boundary has been moved northward to account for migration of the sand sharing system north of Cayo Costa. A portion of the boundary that is coincident with Unit P20P has been modified to reflect natural changes that have occurred along the shoreline of Cayo Costa.

P20P: CAYO COSTA UNIT. There are 13 discrete segments of Unit P20P, but modifications to account for natural changes were only necessary in three of the western segments. The three western segments are coincident with Unit P20, and the modifications were made to account for natural changes that have occurred along the eastern shoreline of Cayo Costa. The southwesternmost boundary that is coincident with Unit P19 has been moved northward to account for shoreline erosion at the southern tip of Cayo Costa.

P21: BOCILLA ISLAND UNIT. There are three discrete segments of Unit P21, but modifications to account for natural changes were only necessary in the northern segment. The landward boundary has been modified to account for natural changes that have occurred along the shoreline of Lemon Bay.

P21A: MANASOTA KEY UNIT. There are three discrete segments of Unit P21A, but modifications to account for natural changes were only necessary in the southern segment. The boundary of the southern segment of the unit has been modified to account for accretion that has occurred along the eastern shoreline of Manasota Key.

P21AP: MANASOTA KEY UNIT. A lateral boundary of the southern segment of the unit has been extended offshore to clarify the extent of the unit. No modifications were made to the boundaries of this unit as a result of changes due to natural forces.

P22: CASEY KEY UNIT. Portions of the landward boundary of the unit have been modified to account for natural changes that have occurred in the configuration of the shoreline along Sarasota Keys.

P23: LONGBOAT KEY UNIT. A portion of the landward boundary of the unit has been modified to account for natural changes that have occurred in the configuration of the wetland/fastland interface along Tidy Island.

P24: THE REEFS UNIT. Portions of the boundary of the unit located north and east of Shell Key Shoal have been modified to account for accretion and to include more of the sand sharing system. A portion of the boundary that is coincident with Unit P24P has been modified to reflect natural changes that have occurred in the configuration of the shoreline along Mullet Key.

P24P: THE REEFS UNIT. A portion of the boundary of the southern segment of the unit, which is coincident with Unit P24, has been modified to reflect natural changes that have occurred in the configuration of the shoreline along Mullet Key.

P24A: MANDALAY POINT UNIT. A portion of the boundary that is coincident with Unit FL–86P has been modified to account for accretion and to include the associated aquatic habitat at the northern tip of Clearwater Beach Island.

P25: CEDAR KEYS UNIT. The coincident boundary between Units P25 and P25P has been modified to account for natural changes that have occurred in the configuration of the shoreline along Candy Island, Hog Island North Key, Seahorse Key, Snake Key, and the eastern end of Buck Island. The coincident boundary between Units P25 and P25P has also been modified to reflect natural changes along Dennis Creek and the wetlands on the western shore of an unnamed peninsula. A portion of the southern boundary of the excluded area along Daughtry Bayou has been modified to account for natural changes in the configuration of the shoreline.

P25P: CEDAR KEYS UNIT. The coincident boundary between Units P25 and P25P has been modified to account for natural changes that have occurred in the configuration of the shoreline along Candy Island, Hog Island North Key, Seahorse Key, Snake Key, and the eastern end of Buck Island. The coincident boundary between Units P25 and P25P has also been modified to reflect natural changes along Dennis Creek and the wetlands on the western shore of an unnamed peninsula.

P27A: OCHLOCKONEE COMPLEX. A portion of the boundary on St. James Island has been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface. A portion of the

boundary along the southern side of Mashes Island has been modified to account for erosion along the shoreline of Ochlockonee Bay.

P28: DOG ISLAND UNIT. The northwestern boundary of the unit has been extended to clarify that Unit P28 is contiguous with Unit FL–90P to the southwest. No modifications were made to the boundaries of this unit as a result of changes due to natural forces.

P30: CAPE SAN BLAS UNIT. The landward boundary of the unit has been modified to account for erosion and other natural changes that have occurred in the configuration of the shoreline along the eastern side of St. Joseph Bay. The coincident boundary between Units P30 and P30P along the Gulf of Mexico has been modified to account for both erosion and accretion along the shoreline of St. Joseph Peninsula. Portions of the coincident boundary between Units P30 and P30P along the western side of St. Joseph Bay have been modified to account for natural changes that have occurred in the configuration of the shoreline. The northern lateral boundary of the unit has been extended offshore to clarify the extent of the unit.

P30P: CAPE SAN BLAS UNIT. The coincident boundary between Units P30 and P30P along the Gulf of Mexico has been modified to account for both erosion and accretion along the shoreline of St. Joseph Peninsula. Portions of the coincident boundary between Units P30 and P30P along the western side of St. Joseph Bay have been modified to account for natural changes that have occurred in the configuration of the shoreline.

P31: ST. ANDREW COMPLEX. Portions of the landward boundary of the unit located northwest of Wild Goose Lagoon, northeast of St. Andrew Sound, along Hog Island Sound, and along St. Andrew Bay, have been modified to account for natural changes along the shoreline and in the wetlands. The coincident boundary between Units P31 and P31P along the shoreline of Shell Island has been modified to account for accretion on the northern side of the island.

P31P: ST. ANDREW COMPLEX. The coincident boundary between Units P31 and P31P along the shoreline of Shell Island has been modified to account for accretion on the northern side of the island. The boundary along the shoreline of Grand Lagoon has been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface.

P32: MORENO POINT UNIT. The southern boundaries of the excluded areas have been modified to account for natural changes that have occurred in the configuration of the shoreline.

*Georgia*

The Service's review found 12 of the 13 CBRS units in Georgia to have changed due to natural forces.

GA–02P: OSSABAW ISLAND UNIT. The northwestern boundary of the unit has been modified to account for channel migration along Skipper Narrows. Portions of the landward boundary of the unit have been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface.

GA–03P: ST. CATHERINE ISLAND UNIT. The western boundary of the unit has been modified to account for channel migration along the Intracoastal Waterway.

GA–04P: BLACKBEARD/SAPELO ISLANDS UNIT. Portions of the landward boundary of the unit have been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface. The northern boundary has been modified to account for channel migration along Sapelo River. The southwestern boundary has been modified to account for channel migration along Hudson Creek, Doboy Sound, North River, and Rockdedundy River.

GA–05P: ALTAMAHA/WOLF ISLANDS UNIT. The northwestern boundary of the unit has been modified to account for channel migration along Darien River. The southwestern boundary has been modified to account for channel migration along South Altamaha River. The southern boundary coincident with Unit N03 has been modified to account for channel migration along Buttermilk Sound.

N01: LITTLE TYBEE ISLAND UNIT. The northeastern and lateral boundaries have been modified to add portions of the sand sharing system at the mouth of Tybee Creek. The northern boundary of the unit has been modified to account for channel migration along Bull River, Lazaretto Creek, and Tybee Creek. The southwestern boundary has been modified to account for channel migration along Wilmington River. The landward portion of the unit has been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface.

N01A: WASSAW ISLAND UNIT. The western boundary of the unit has been modified to account for channel migration along an unnamed channel.

N01AP: WASSAW ISLAND UNIT. The western boundary of the unit has been modified to account for channel migration along Romerly Marsh Creek, Habersham Creek, and Adams Creek.

N03: LITTLE ST. SIMONS ISLAND UNIT. The northern boundary coincident with Unit GA–05P has been modified to account for channel migration along Buttermilk Sound. The southern boundary of the unit has been modified to account for channel migration along Village Creek and Hampton River. Portions of the landward boundary of the unit have been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface.

N04: SEA ISLAND UNIT. The northern and landward boundaries of the unit have been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface. The southwestern boundary has been modified to account for channel migration along an unnamed channel. A portion of the southern boundary has been modified to extend further west to account for migration of the sand sharing system at Goulds Inlet.

N05: LITTLE CUMBERLAND ISLAND UNIT. The northern lateral boundary of the unit has been moved north to account for shoal migration north of Little Cumberland Island. The landward boundary of the unit has been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface. The southern boundary coincident with Unit N06 has been modified to account for channel migration along Floyd Creek. The southeastern boundary coincident with Unit N06P has been modified to account for the accretion of the barrier spit at Long Point.

N06: CUMBERLAND ISLAND UNIT. There are five discrete segments of Unit N06, but modifications to account for natural changes were only necessary in two of the segments. The northern boundary of the northern segment, coincident with Unit N05, has been modified to account for channel migration along Floyd Creek. The landward boundary of the northern segment has been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface. The eastern boundary of the northern segment coincident with Unit N06P has been modified to account for channel migration along Brickhill River. The southeastern portion of the southern segment coincident with Unit N06P has been modified to account for channel migration along Beach Creek.

N06P: CUMBERLAND ISLAND UNIT. There are six discrete segments of Unit N06P, but modifications to account for natural changes were only necessary in three of the segments. In the northernmost segment, the northern boundary coincident with Unit N06 has been modified to account for the accretion of the barrier spit at Long Point. The western boundary of this segment that is coincident with Unit N06 has been modified to account for channel migration along Brickhill River. The boundary of the northwestern segment of Unit N06P, coincident with Unit N06, has been modified to account for channel migration along Brickhill River. The southwestern portion of the southern segment coincident with Unit N06 has been modified to account for channel migration along Beach Creek.

*Louisiana*

The Service's review found five of the seven CBRS units in Louisiana that are included in this review (Units LA–01, LA–02, S03, S04, S05, S06, and S07) to have changed due to natural forces.

The remaining Louisiana CBRS units not included in this review (Units LA–03P, LA–04P, LA–05P, LA–07, LA–08P, LA–09, LA–10, S01, S01A, S02, S08, S09, S10, and S11) are anticipated to have draft revised maps completed through the digital conversion effort available for stakeholder review and comment in 2016.

S03: CAMINADA UNIT. The eastern boundary of the unit north of Cheniere Caminada has been modified to account for channel migration. The eastern boundary of the southwestern excluded area has been modified to account for natural changes along the shoreline of an unnamed channel.

S04: TIMBALIER BAY UNIT. The eastern boundary of the unit has been modified to

account for channel migration and wetlands erosion along Bayou Lafourche and Belle Pass. A portion of the northern boundary following an inlet to Devils Bay has been modified to account for channel migration and wetlands erosion.

S05: TIMBALIER ISLANDS UNIT. The northern boundary of the unit has been modified to account for the migration of Timbalier Island and East Timbalier Island and to include associated shoals within the unit. The western boundary has also been moved westward to account for the migration of Timbalier Island.

S06: ISLES DERNIERES UNIT. The northeastern boundary has been modified to account for the migration of the Isles Dernieres. The northern boundary has been modified and generalized to account for wetlands erosion along Grand Pass des Ilettes. The western boundary has been moved northwestward to account for the migration of the Isles Dernieres. The eastern boundary of the unit has been extended offshore to clarify the extent of the unit.

S07: POINT AU FER UNIT. The eastern boundary of the unit has been modified to account for channel migration along Buckskin Bayou. The northern boundary has been modified to account for channel migration along Blue Hammock Bayou. A segment of the western boundary has been modified to account for wetlands erosion on the western side of Point Au Fer Island. A segment of the western boundary has been modified to include North Point due to accretion connecting North Point to Point Au Fer. Due to the significant rate of erosion in this area, some of the boundaries have been generalized. The eastern and western boundaries have been extended offshore to clarify the extent of the unit. Additionally, the northern boundary of the unit has been adjusted near the location where Four League Bay joins Atchafalaya Bay to close a gap in the boundary on the official map dated October 24, 1990, for this unit.

*Michigan*

The Service's review found 16 of the 46 CBRS units in Michigan to have changed due to natural forces.

MI–02: TOLEDO BEACH UNIT. The western lateral boundary has been moved westward to account for the accretion of a barrier spit within the unit.

MI–04: STURGEON BAR UNIT. The landward boundary of the unit has been modified to reflect natural changes that have occurred in the configuration of the shoreline and the wetland/fastland interface.

MI–05: HURON CITY UNIT. The boundary of the unit has been modified to reflect natural changes that have occurred in the configuration of the shoreline of Lake Huron and Willow Creek.

MI–08: CHARITY ISLAND UNIT. The western boundary of the unit has been moved westward to account for accreting sand and submerged shoals on the western side of Charity Island.

MI–13: SQUAW BAY UNIT. The landward boundary of the unit has been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface. The northern lateral boundary has been moved northward and the southern lateral boundary has been moved southward to account for accreting sand and submerged shoals around Sulphur Island.

MI–14: WHITEFISH BAY UNIT. The landward boundary of the unit has been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface.

MI–17: SWAN LAKE UNIT. The western and southeastern boundaries of the unit have been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface. The eastern boundary has been modified to account for natural changes in the configuration of the shoreline of Swan Lake and to the channel between Swan Lake and Lake Huron.

MI–21: ARCADIA LAKE UNIT. The boundary along the eastern shoreline of the excluded area has been modified slightly to better follow the shoreline as depicted on the new CBRS base map.

MI–22: SADONY BAYOU UNIT. The landward boundary of the unit has been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface.

MI–29: SEUL CHOIX UNIT. The northeastern boundary of the unit has been modified to reflect natural changes that have occurred in the configuration of the shoreline of an unnamed channel.

MI–33: MILLECOQUINS POINT UNIT. The boundary of the unit along the southern side of the excluded area has been modified slightly to better follow the shoreline as depicted on the new CBRS base map.

MI–40: GREEN ISLAND UNIT. The eastern landward boundary of the unit has been modified to reflect the current configuration of the wetland/fastland interface. The western landward boundary has been modified to account for accretion along the shoreline. The eastern lateral boundary has been moved eastward and the western lateral boundary has been moved westward to account for accreting sand and submerged shoals within the unit.

MI–44: ALBANY ISLAND UNIT. The western portion of the landward boundary of the unit has been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface.

MI–49: SHELLDRAKE UNIT. A portion of the northern boundary of the unit has been modified to reflect natural changes that have occurred in the configuration of the shoreline of Betsy River.

MI–53: VERMILION UNIT. The landward boundary of the unit has been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface and the configuration of the shoreline of Twomile Lake.

MI–62: SAUX HEAD UNIT. The boundary of the unit has been modified to reflect natural changes that have occurred in the configuration of the shoreline of Saux Head Lake.

*Minnesota*

The Service's review found that the boundaries of Unit MN–01 (the only CBRS unit in Minnesota) do not need to be modified due to changes from natural forces.

*Mississippi*

The Service's review found four of the seven CBRS units in Mississippi to have changed due to natural forces. Additionally, the Service's review found that one of these units, R01A, contained administrative errors that were made by the Service in 1990.

MS–01P: GULF ISLANDS UNIT. The gap between the two discrete segments of the unit, located near the western tip of Petit Bois Island, has been moved to the west due to the migration of Petit Bois Island towards Horn Island Pass Channel.

MS–02: MARSH POINT UNIT. Portions of the landward boundary of the unit have been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface.

MS–04: HERON BAY POINT UNIT. Three segments of offshore boundary have been added to the eastern, western, and southern portions of the unit to clarify the extent of the unit. The southern boundary of the unit is coincident with the northern boundary of Unit LA–02 in Louisiana. No modifications were made to the boundaries of this unit as a result of changes due to natural forces.

R01A: BELLE FONTAINE POINT UNIT. The western boundary of the unit has been modified to reflect natural changes in the wetlands along Graveline Bay. Additionally, three areas of the unit have been modified to correct administrative errors in the transcription of the boundary from the draft map that was included in the Service's *1988 Report to Congress: Volume 17, Mississippi,* and was reviewed and approved by Congress, to the official map dated October 24, 1990, for this unit. On the landward side of the unit, the boundary on the official 1990 map inaccurately showed more wetlands within the unit than the 1988 draft map. Furthermore, the eastern and western lateral boundaries of the unit were intended to remain the same as those depicted on the original map for this unit dated September 30, 1982, which was adopted by Congress with the enactment of the CBRA. However, the lateral boundaries were inadvertently moved by as much as 950 feet when they were transcribed from the 1988 draft map onto the new base map used for the official 1990 map. These corrections are supported by an assessment of the historical CBRS maps for the area and the legislative history of the CBIA. These errors likely occurred due to the fact that the boundary shown on the draft map that was approved by Congress had to be transcribed onto a new base map in 1990 in order to create the official map for the unit, and the new base map showed slightly updated natural and development features.

R02: DEER ISLAND UNIT. The official October 24, 1990, map of this unit does not include a complete depiction of the western end of Deer Island due to the limitations of the base map that was used at the time. The western portion of the boundary of the unit goes up to edge of the U.S. Geological Survey Topographic Quadrangle that it was printed

on, and the unit is assumed to extend to the west to cover all of Deer Island. A segment of boundary has been added to the western end of the unit to match the location of the boundary as depicted on the Congressionally adopted map that first established this unit, dated September 30, 1982, to clearly show that all of Deer Island is within the unit. This clarification is supported by an assessment of the historical CBRS maps for this area as well as the legislative history of the CBIA. No modifications were made to the boundaries of this unit as a result of changes due to natural forces.

R03: CAT ISLAND UNIT. The western segment of the unit has been modified to account for erosion of the wetlands on the western side of Cat Island. The eastern segment of the unit, consisting of Middle Spit, South Spit, and associated shoals, has been modified to account for erosion of the wetlands, and erosion and migration of the spit. Due to the rapid rate of erosion in this area, some of the boundaries have been generalized.

*New York*

The Service's review found 15 of the 21 CBRS units in the Great Lakes region of New York (the only CBRS units in New York that were part of this review) to have changed due to natural forces. Unit NY–60P was remapped and referenced in notices the Service published in the **Federal Register** on June 10, 2014 (79 FR 33207), and May 4, 2015 (80 FR 25314). Other CBRS units in the State of New York were not assessed as part of this review.

NY–62: GRENADIER ISLAND UNIT. The eastern lateral boundary of the unit has been modified to account for the accretion of a sand spit within the unit.

NY–64: THE ISTHMUS UNIT. A portion of the boundary of the unit along Chaumont Bay has been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface.

NY–65: POINT PENINSULA UNIT. The landward boundary of the unit has been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface.

NY–66: HOUNSFIELD UNIT. Two segments of offshore boundary have been added to clarify the extent of the unit. No modifications were made to the boundaries of this unit as a result of changes due to natural forces.

NY–67: DUTCH JOHN BAY UNIT. Portions of the boundary along the shoreline of Stony Island have been modified to account for natural changes that have occurred in the configuration of the shoreline.

NY–68: SHERWIN BAY UNIT. Portions of the boundary located inland of Shore Road have been modified to account for natural changes that have occurred in the configuration of the shoreline of Sherwin Bay.

NY–69: ASSOCIATION ISLAND UNIT. The boundary of the unit has been modified to account for erosion along the shoreline of Association Island.

NY–72: NORTH POND UNIT. The boundary of the unit has been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface and to account for shoreline erosion around North Pond.

NY–73: DEER CREEK MARSH UNIT. The boundary of the unit around the southern half of Deer Creek Marsh has been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface.

NY–74: GRINDSTONE CREEK UNIT. The landward boundary of the unit has been modified to follow the wetland/fastland interface along portions of the boundary that previously followed the shoreline of a pond which no longer exists as depicted on the base map of the October 15, 1992 official CBRS map. A portion of the northern lateral boundary has been moved northward to reflect the current position of the outlet of Grindstone Creek.

NY–75: BUTTERFLY SWAMP UNIT. The landward boundary of the unit has been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface around Butterfly Swamp.

NY–76: WALKER UNIT. The landward and southern lateral boundaries of the unit have been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface.

NY–77: SNAKE SWAMP UNIT. A portion of the eastern boundary of the unit located north of Lakeshore Road has been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface.

NY–79: BLIND SODUS BAY UNIT. The landward boundary of the unit has been modified to account for natural changes that have occurred in the configuration of the shoreline and wetland/fastland interface. The western lateral boundary of the unit has been moved southwest to account for erosion along the shoreline of Lake Ontario.

NY–84: MAXWELL BAY UNIT. The boundary of the unit has been modified to account for natural changes that have occurred in the configuration of the wetland/fastland interface.

NY–87: BIG SISTER CREEK UNIT. A portion of the landward boundary on the northern side of the unit formerly followed the shoreline of an unnamed channel that has since migrated southward. This portion of the boundary has been modified to follow the wooded vegetation line east of the beach.

*Ohio*

The Service's review found 6 of the 10 CBRS units in Ohio to have changed due to natural forces.

OH–02: MENTOR UNIT. There are two segments of Unit OH–02, but modifications to account for natural changes were only necessary in the western segment. Portions of the boundary around Mentor Marsh have been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface.

OH–03: NORTH POND UNIT. The western end of the landward boundary of the unit has been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface. The eastern and western lateral boundaries of the unit have been modified to account for erosion along the shoreline of Lake Erie.

OH–04: OLD WOMAN CREEK. The southern portion of the boundary of the unit located north of Ohio State Route 2 has been modified to account for natural changes that have occurred in the shoreline along Old Woman Creek.

OH–06: BAY POINT UNIT. The southwestern boundary of the unit has been moved farther southeast to account for the accretion of Bay Point.

OH–09: FOX MARSH UNIT. The landward boundary of the unit has been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface.

OH–10: TOUSSAINT RIVER UNIT. The landward boundary of the unit has been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface.

*Wisconsin*

The Service's review found six of the seven CBRS units in Wisconsin to have changed due to natural forces.

WI–02: POINT AU SABLE UNIT. The southern lateral boundary of the unit has been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface near the inlet of an unnamed channel to Green Bay.

WI–03: PESHTIGO POINT UNIT. There are two segments of Unit WI–03, but modifications to account for natural changes were only necessary in the western segment. The southern boundary of the western segment of the unit has been modified to reflect natural changes in the wetlands.

WI–04: DYERS SLOUGH UNIT. The eastern boundary of the unit has been modified to account for natural changes that have occurred in the configuration of the eastern shoreline of the Peshtigo River.

WI–05: BARK BAY UNIT. The landward boundary of the unit has been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface.

WI–06: HERBSTER UNIT. The landward boundary of the unit has been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface.

WI–07: FLAG RIVER UNIT. There are two segments of Unit WI–07, but modifications to account for natural changes were only necessary in the eastern segment. Portions of the landward boundary of the unit have been modified to reflect natural changes that have occurred in the configuration of the wetland/fastland interface.

**Request for Comments**

The CBRA requires consultation with the appropriate Federal, State, and local officials on the proposed CBRS boundary modifications to reflect changes that have occurred in the size or location of any CBRS unit as a result of natural forces (16 U.S.C. 3503(c)). We

invite interested Federal, State, and local officials to review and comment on the draft maps for all of the CBRS units in Alabama, all units in Florida (except for one unit that was remapped in 2014), all units in Georgia, several units in Louisiana, all units in Michigan, the only unit in Minnesota, all units in Mississippi, all units in the Great Lakes region of New York, all units in Ohio, and all units in Wisconsin. The Service is specifically notifying the following stakeholders concerning the availability of the draft maps and opportunity to provide comments on the proposed boundary modifications: The Chair and Ranking Member of the House of Representatives Committee on Natural Resources; the Chair and Ranking Member of the Senate Committee on Environment and Public Works; the members of the Senate and House of Representatives for the affected areas; the Governors of the affected areas; and other appropriate Federal, State, and local officials.

Federal, State, and local officials may submit written comments and accompanying data to the individual and location identified in the **ADDRESSES** section. We will also accept digital Geographic Information System (GIS) data files that are accompanied by written comments. Comments regarding specific units should reference the appropriate CBRS unit number and unit name. Please note that boundary modifications through this process can only be made to reflect changes that have occurred in the size or location of any CBRS unit as a result of natural forces, voluntary additions to the CBRS, or additions of excess Federal property to the CBRS (as authorized under 16 U.S.C. 3503(c)–(e)); other requests for changes to the CBRS will not be considered at this time. We must receive comments on or before the date listed in the **DATES** section of this document.

**Availability of Draft Maps and Related Information**

The draft maps and digital boundary data can be accessed and downloaded from the Service's Web site: *http://www.fws.gov/ecological-services/habitat-conservation/Coastal.html.* The digital boundary data are available for reference purposes only. The digital boundaries are best viewed using the base imagery to which the boundaries were drawn; this information is printed in the title block of the draft maps. The Service is not responsible for any misuse or misinterpretation of the digital boundary data.

Interested parties may also contact the Service individual identified in the **FOR FURTHER INFORMATION CONTACT** section of this notice to make arrangements to view the draft maps at the Service's Headquarters office. Interested parties who are unable to access the draft maps via the Service's Web site or at the Service's Headquarters office may contact the Service individual identified in the **FOR FURTHER INFORMATION CONTACT** section, and reasonable accommodations will be made to ensure the individual's ability to view the draft maps.

**Public Availability of Comments**

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Gary Frazer,**

*Assistant Director for Ecological Services.*

[FR Doc. 2015–29191 Filed 11–16–15; 8:45 am]

BILLING CODE 4333–15–P

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–R2–ES–2015–N209; FXES11130200000–167–FF02ENEH00]**

### Endangered and Threatened Species Permit Applications; Turner Endangered Species Fund, Bozeman, Montana; Correction

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; request for comments; correction.

**SUMMARY:** On April 2, 2015, we, the U.S. Fish and Wildlife Service (Service), published a notice in the **Federal Register** announcing receipt of an application from the Turner Endangered Species Fund for an endangered and threatened species permit pursuant to the Endangered Species Act of 1973, as amended (Act). The notice contained an incorrect permit number. The correct permit number is TE–43754A. With this notice, we correct that error. If you sent a comment previously, you need not re-send the comment.

**FOR FURTHER INFORMATION CONTACT:** Susan Jacobsen, 505–248–6641. If you use a telecommunications device for the deaf, please call the Federal Information Relay Service at 800–877–8339.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of April 2, 2015 (80 FR 17775), in FR Doc. 2015–07548, on page 17776, in the second column, correct the permit number for applicant ''Turner Endangered Species, Fund, Bozeman, Montana,'' from ''Permit TE–051139'' to ''Permit TE–43754A.''

Dated: November 5, 2015.

**Joy E. Nicholopoulos,**

*Acting Regional Director, Southwest Region, U.S. Fish and Wildlife Service.*

[FR Doc. 2015–29286 Filed 11–16–15; 8:45 am]

BILLING CODE 4333–15–P

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## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLMT926000–L14400000.BJ0000); 16XL1109AF; MO#4500087308]**

### Notice of Filing of Plats of Survey; Montana

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of filing of plats of survey.

**SUMMARY:** The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM Montana State Office, Billings, Montana, on December 17, 2015.

**DATES:** Protests of the survey must be filed before December 17, 2015 to be considered.

**ADDRESSES:** Protests of the survey should be sent to the Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669.

**FOR FURTHER INFORMATION CONTACT:** Marvin Montoya, Cadastral Surveyor, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669, telephone (406) 896–5124 or (406) 896–5003, *Hmontoya@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** This survey was executed at the request of the Field Manager, Central Montana District Office, Upper Missouri River Breaks National Monument (UMRBNM), Bureau of Land Management, Lewistown, Montana, and was

necessary to determine boundaries of Federal lands.

The lands we surveyed are:

**Principal Meridian, Montana**

T. 26 N., R. 20 E.

The plat, in 3 sheets, representing the dependent resurvey of a portion of the subdivisional lines and the subdivision of certain sections in Township 26 North, Range 20 East, Principal Meridian, Montana, was accepted September 25, 2015.

This survey was executed at the request of the Field Manager, Dillon Field Office, Bureau of Land Management, Dillon, Montana, and was necessary to determine boundaries of Federal lands.

The lands we surveyed are:

**Principal Meridian, Montana**

T. 2 S., R. 2 E.

The plat, in 1 sheet, representing the dependent resurvey of a portion of the west boundary, a portion of the subdivisional lines, and the adjusted original meanders of the left and right banks of the Madison River, and the subdivision of section 19, in Township 2 South, Range 2 East, Principal Meridian, Montana, was accepted September 25, 2015.

This survey was executed at the request of the Field Manager, Malta Field Office, Bureau of Land Management, Malta, Montana, and was necessary to determine boundaries of Federal lands.

The lands we surveyed are:

**Principal Meridian, Montana**

T. 25 N., R. 24 E.

The plat, in 1 sheet, representing the dependent resurvey of portions of the subdivisional lines and subdivision of certain sections and the subdivision of certain sections, in Township 25 North, Range 24 East, Principal Meridian, Montana, was accepted September 25, 2015.

The lands we surveyed are:

**Principal Meridian, Montana**

T. 25 N., R. 25 E.

The plat, in 1 sheet, representing the dependent resurvey of portions of the subdivisional lines and subdivision of section 16 and the subdivision of section 16, in Township 25 North, Range 25 East, Principal Meridian, Montana, was accepted September 25, 2015.

This survey was executed at the request of the Field Manager, Malta Field Office, Bureau of Land Management, Malta, Montana, and was necessary to determine boundaries of Federal lands.

We will place a copy of the plats, in six sheets, and related field notes we described in the open files. They will be available to the public as a matter of information. If the BLM receives a protest against this survey, as shown on these plats, in six sheets, prior to the date of the official filing, we will stay the filing pending our consideration of the protest. We will not officially file these plats, in six sheets, until the day after we have accepted or dismissed all protests and they have become final, including decisions or appeals.

**Authority:** 43 U.S.C. Chap. 3.

**Joshua F. Alexander,**

*Acting Chief, Branch of Cadastral Survey, Division of Energy, Minerals and Realty.*

[FR Doc. 2015–29205 Filed 11–16–15; 8:45 am]

BILLING CODE 4310–DN–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLOR957000–L14400000–BJ0000–16XL1109AF: HAG 16–0041]**

### Filing of Plats of Survey: Oregon/Washington

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The plats of survey of the following described lands are scheduled to be officially filed in the Bureau of Land Management, Oregon State Office, Portland, Oregon, 30 days from the date of this publication.

**Willamette Meridian**

*Oregon*

Tps. 19 & 20 S., R. 2 W., accepted October 2, 2015
T. 30 S., R. 15 W., accepted October 2, 2015
T. 22 S., R. 10 W., accepted October 23, 2015
T. 17 S., R. 4 W., accepted October 30, 2015
T. 39 S., R. 1 W., accepted November 2, 2015
T. 23 S. R. 9 W., accepted November 2, 2015

*Washington*

T. 22 N., R. 13 W., accepted October 30, 2015

**ADDRESSES:** A copy of the plats may be obtained from the Public Room at the Bureau of Land Management, Oregon State Office, 1220 SW. 3rd Avenue, Portland, Oregon 97204, upon required payment.

**FOR FURTHER INFORMATION CONTACT:** Kyle Hensley, (503) 808–6132, Branch of Geographic Sciences, Bureau of Land Management, 1220 SW. 3rd Avenue, Portland, Oregon 97204. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** A person or party who wishes to protest against this survey must file a written notice with the Oregon State Director, Bureau of Land Management, stating that they wish to protest. A statement of reasons for a protest may be filed with the notice of protest and must be filed with the Oregon State Director within thirty days after the protest is filed. If a protest against the survey is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed or otherwise resolved. Before including your address, phone number, email address, or other personally identifying information in your comment, you should be aware that your entire comment—including your personally identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifying information from public review, we cannot guarantee that we will be able to do so.

**Mary J.M. Hartel,**

*Chief Cadastral Surveyor of Oregon/Washington.*

[FR Doc. 2015–29284 Filed 11–16–15; 8:45 am]

BILLING CODE 4310–33–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLMT926000–L14400000.BJ0000); 16XL1109AF; MO#4500087309]**

### Notice of Filing of Plats of Survey; North Dakota

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of filing of plats of survey.

**SUMMARY:** The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM Montana State Office, Billings, Montana, on December 17, 2015.

**DATES:** Protests of the survey must be filed before December 17, 2015 to be considered.

**ADDRESSES:** Protests of the survey should be sent to the Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669.

**FOR FURTHER INFORMATION CONTACT:** Marvin Montoya, Cadastral Surveyor, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669, telephone (406) 896–5124 or (406) 896–5003, *Marvin_Montoya@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** This survey was executed at the request of the Chief, Branch of Fluid Minerals, Bureau of Land Management, Montana State Office, Billings, Montana, and was necessary to determine Federal Leasable Mineral Lands.

The lands we surveyed are:

**5th Principal Meridian, North Dakota**

T. 148 N., R. 96 W.

The plat, in twelve sheets, representing the dependent resurvey of a portion of the 12th Standard Parallel, through Range 96 West, a portion of the 14th Guide Meridian, through Township 148 North, a portion of the west boundary, a portion of the subdivisional lines, the adjusted original meanders of the former left and right banks of the Little Missouri River, and certain division of accretion lines, and the subdivision of certain sections, and the survey of the meanders of the present left and right banks of the Little Missouri River, the limits of erosion in sections 7, 18, 25, 26, and 36, and certain division of accretion lines, Township 148 North, Range 96 West, Fifth Principal Meridian, North Dakota, was accepted September 25, 2015.

We will place a copy of the plat, in twelve sheets, and related field notes we described in the open files. They will be available to the public as a matter of information. If the BLM receives a protest against this survey, as shown on this plat, in two sheets, prior to the date of the official filing, we will stay the filing pending our consideration of the protest. We will not officially file this plat, in twelve sheets, until the day after we have accepted or dismissed all protests and they have become final, including decisions or appeals.

**Authority:** 43 U.S.C. Chap. 3.

**Joshua F. Alexander,**

*Acting Chief, Branch of Cadastral Survey, Division of Energy, Minerals and Realty.*

[FR Doc. 2015–29206 Filed 11–16–15; 8:45 am]

BILLING CODE 4310–DN–P

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## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NAGPRA–19605; PPWOCRADN0–PCU00RP14.R50000]**

### Notice of Inventory Completion: Neville Public Museum of Brown County, Green Bay, WI

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Neville Public Museum of Brown County has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Neville Public Museum of Brown County. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Neville Public Museum of Brown County at the address in this notice by December 17, 2015.

**ADDRESSES:** Louise Pfotenhauer, Neville Public Museum of Brown County, 210 Museum Place, Green Bay, WI 54303, telephone (920) 448–7845, email *Pfotenhauer_lc@co.brown.wi.us.*

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Neville Public Museum of Brown County, Green Bay, WI. The human remains and associated funerary objects were removed from an unknown location in South Dakota.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

#### Consultation

A detailed assessment of the human remains was made by the Neville Public Museum of Brown County professional staff in consultation with representatives of the Yankton Sioux Tribe of South Dakota.

#### History and Description of the Remains

Prior to 1970, human remains representing, at minimum, one individual were acquired by James Dobry Sr. from an unknown area of South Dakota, as part of a 36'' long necklace identified by him as being ''authentic Sioux with claws, beads, and teeth.'' In 1970, the human remains were donated to the Neville Public Museum of Brown County. No known individuals were identified. The 94 associated funerary objects which are all part of the necklace include 43 raptor claws and mammal canines, 20 glass and clay beads, 29 shells, and two non-human phalanges. Trade beads indicate this is an historic period necklace.

#### Determinations Made by the Neville Public Museum of Brown County

Officials of the Neville Public Museum of Brown County have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 1 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 94 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects

and Yankton Sioux Tribe of South Dakota.

**Additional Requestors and Disposition**

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Louise Pfotenhauer, Neville Public Museum of Brown County, 210 Museum Place, Green Bay, WI 54303, telephone (920) 448–7845, email *Pfotenhauer_lc@co.brown.wi.us,* by December 17, 2015. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to Yankton Sioux Tribe of South Dakota may proceed.

The Neville Public Museum of Brown County is responsible for notifying the Yankton Sioux Tribe of South Dakota that this notice has been published.

Dated: October 16, 2015.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2015–29351 Filed 11–16–15; 8:45 am]

BILLING CODE 4312–50–P

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NAGPRA–19608; PPWOCRADN0–PCU00RP14.R50000]**

### Notice of Inventory Completion: Neville Public Museum of Brown County, Green Bay, WI

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Neville Public Museum of Brown County has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Neville Public Museum of Brown County. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Neville Public Museum of Brown County at the address in this notice by December 17, 2015.

**ADDRESSES:** Louise Pfotenhauer, Neville Public Museum of Brown County, 210 Museum Place, Green Bay, WI 54303, telephone (920) 448–7845, email *Pfotenhauer_lc@co.brown.wi.us.*

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Neville Public Museum of Brown County, Green Bay, WI. The human remains and associated funerary objects were removed from Portage Point, Door County, WI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

**Consultation**

A detailed assessment of the human remains was made by the Neville Public Museum of Brown County professional staff in consultation with representatives of the Ho-Chunk Nation of Wisconsin.

**History and Description of the Remains**

In 1930, human remains representing, at minimum, one individual were removed from Portage Point in Door County, WI. A partial skeleton of 35–50 year-old male was discovered and excavated by P. M. Platten and P. Krippner. The human remains were brought to Neville Public Museum of Brown County after excavation. No known individuals were identified. The approximately 33 associated funerary objects are pot sherds.

Potsherds accompanying burial and lack of trade goods suggest a late pre-contact date for the burial. Based on Ho-Chunk's Early Historic Period homeland, the human remains and associated funerary objects are culturally affiliated with the Ho-Chunk people.

**Determinations Made by the Neville Public Museum of Brown County**

Officials of the Neville Public Museum of Brown County have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 1 individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 33 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and Ho-Chunk Nation of Wisconsin.

**Additional Requestors and Disposition**

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Louise Pfotenhauer, Neville Public Museum of Brown County, 210 Museum Place, Green Bay, WI 54303, telephone (920) 448–7845, email *Pfotenhauer_lc@co.brown.wi.us,* by December 17, 2015. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to Ho-Chunk Nation of Wisconsin.

The Neville Public Museum of Brown County is responsible for notifying the Ho-Chunk Nation of Wisconsin that this notice has been published.

Dated: October 16, 2015.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2015–29356 Filed 11–16–15; 8:45 am]

BILLING CODE 4312–50–P

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NAGPRA–19321; PPWOCRADN0–PCU00RP14.R50000]**

### Notice of Intent To Repatriate Cultural Items: Dallas Museum of Art, Dallas, TX

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Dallas Museum of Art, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of sacred objects and objects of cultural patrimony. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the Dallas Museum of Art. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the Dallas Museum of Art at the address in this notice by December 17, 2015.

**ADDRESSES:** Carol Griffin, Registrar, Dallas Museum of Art, 1717 North Harwood Street, Dallas, TX 75201, telephone (214) 922–1327, email *cgriffin@dma.org.*

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the Dallas Museum of Art, Dallas, TX, that meet the definition of sacred objects and objects of cultural patrimony under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

## History and Description of the Cultural Item(s)

In 1988, 27 masks and mask parts and two wrist guards were acquired by the Dallas Museum of Art in Dallas, TX, through a local gallery in Dallas, TX. According to the gallery's owner, the masks, mask parts, and wrist guards were bought from a private Arizona collector who had purchased them from the son of a former head of the Hopi Badger Clan. These items were reported in the summaries in 1993 through compliance with NAGPRA. Following the summary, the number of parts associated with this accession was variously corrected and updated through identification and pairing. According to museum records, the mask, mask parts, and wrist guards have never been placed on exhibit; they have remained in storage since acquisition.

In 2009, the Dallas Museum of Art accepted by donation two dance wands, which had been on loan to the museum since 1984 by a Dallas collector. The dance wands had been on exhibit at the time of consultation in 1993 by representatives of the Hopi Tribe of Arizona. They were promptly placed in storage following the visit.

The 31 sacred objects hereby submitted in this notice for intent to repatriate include: 2 woman's society dance wands (a pair); 1 case mask of Kokopelli, hump-backed flute player; 1 case mask of the Laguna corn dancer; 1 half-mask; 23 accessories for case masks, 1 pair of wrist guards; and 2 dance caps.

In 1993, the Hopi Tribe of Arizona came to the museum to review the collection, identifying the respective masks parts. The Dallas Museum of Art was in correspondence with the Hopi Tribe of Arizona in 1997 and 1998 regarding the potential for treatment of the organic materials, for which the museum had no record of treatment for objects within the 1988 acquisition. The Dallas Museum of Art and Hopi Tribe of Arizona renewed correspondence about the masks and mask parts in 2014, which included at that time additional information regarding the dance wands. A request for repatriation of these 31 items was submitted by the Hopi Tribe of Arizona on December 23, 2014. The Dallas Museum of Art formally recognized the claim on March 19, 2015 with Board of Trustees approval.

## Determination Made by the Dallas Museum of Art

Officials of the Dallas Museum of Art have determined that:

• Pursuant to 25 U.S.C. 3001(3)(C), the 31 cultural items described above are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.

• Pursuant to 25 U.S.C. 3001(3)(D), the 31 cultural items described above have ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual.

• Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the sacred objects and the Hopi Tribe of Arizona.

## Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to: Carol Griffin, Registrar, Dallas Museum of Art, 1717 North Harwood Street, Dallas, Texas 75201, telephone (214) 922–1327, email *cgriffin@dma.org* by December 17, 2015. After that date, if no additional claimants have come forward, transfer of control of the sacred objects/objects of cultural patrimony to the Hopi Tribe of Arizona may proceed.

The Dallas Museum of Art is responsible for notifying the Hopi Tribe of Arizona that this notice has been published.

Dated: September 15, 2015.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2015–29360 Filed 11–16–15; 8:45 am]

BILLING CODE 4312–50–P

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# DEPARTMENT OF THE INTERIOR

## National Park Service

**[NPS–WASO–NAGPRA–19631; PPWOCRADN0–PCU00RP14.R50000]**

## Notice of Intent to Repatriate Cultural Items: Carnegie Museum of Natural History, Pittsburgh, PA

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Carnegie Museum of Natural History, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of unassociated funerary objects. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the Carnegie Museum of Natural History. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to

the Carnegie Museum of Natural History at the address in this notice by December 17, 2015.

**ADDRESSES:** Deborah G Harding, Collection Manager, Section of Anthropology, Carnegie Museum of Natural History, 5800 Baum Boulevard, Pittsburgh, PA 15206, telephone (412) 665–2608, email *hardingd@carnegiemnh.org.*

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the Carnegie Museum of Natural History, Pittsburgh, PA that meet the definition of unassociated funerary objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

## History and Description of the Cultural Item(s)

Between 1957 and 1960, human remains representing at minimum, 58 individuals were removed from the Chambers site (36LR11) in Lawrence County, PA. John A. Zakucia, a private individual, excavated from 1957 to 1959, with permission from the landowners. He donated human remains and associated funerary objects to CMNH in June, 1959. In 1959–1960, CMNH personnel assisted Zakucia in his excavations. During these excavations, 2530 additional, unaffiliated cultural items were removed from the Chambers Site (36LR11) in Lawrence County, PA. The 2,531 unassociated funerary objects, are 1953 flint fragments; 373 scrapers and knives; 40 points and fragments; 4 choppers; 6 hammerstones; 1 steatite fragment; 10 burins and gravers; 11 native pottery fragments; 7 hematite fragments; 16 animal bone fragments; 6 pitted stones; 11 charcoal fragments; 1 net weight; 38 natural stones and fragments; 3 drills; 6 historic pottery fragments; 20 iron and nail fragments; 2 glass fragments; 2 mortar fragments; 4 polished stones; 1 gorget and 3 fragments; 1 Micmac-style pipe; 1 coal fragment; 1 copper fragment; 2 fire-cracked rocks; 1 piece of wood with bone; 1 charred corn cob; l Lincoln penny; and 5 radio-carbon samples.

## Determinations Made by the Carnegie Museum of Natural History

Officials of the Carnegie Museum of Natural History have determined that:

- Pursuant to 25 U.S.C. 3001(3)(B), the 2530 cultural items described above are not believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, not to have been removed from a specific burial site of a Native American individual. However, since these objects were excavated from above and below a historic cemetery associated with an historic Delaware village, and since the Delaware consider them by proximity to be part of the burials from that cemetery, they become *de facto* funerary objects.
- Because of the point above, pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and Delaware Tribe of Indians.

## Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Deborah G Harding, Collection Manager, Section of Anthropology, Carnegie Museum of Natural History, 5800 Baum Blvd., Pittsburgh, PA 15206, telephone (412–665–2608) email *hardingd@carnegiemnh.org,* by December 17, 2015. After that date, if no additional claimants have come forward, transfer of control of the unassociated funerary objects to the Delaware Tribe of Indians may proceed.

The Carnegie Museum of Natural History is responsible for notifying the Delaware Tribe of Indians that this notice has been published.

Dated: October 21, 2015.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2015–29355 Filed 11–16–15; 8:45 am]

BILLING CODE 431210–50–P

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## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NAGPRA–19590; PPWOCRADN0–PCU00RP14.R50000]**

## Notice of Inventory Completion: Shiloh Museum of Ozark History, Springdale, AR

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

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**SUMMARY:** The Shiloh Museum of Ozark History has completed an inventory of human remains and associated funerary objects in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any present-day Indian tribes or Native Hawaiian organizations. Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Shiloh Museum of Ozark History. If no additional requestors come forward, transfer of control of the human remains to the Indian tribes or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Shiloh Museum of Ozark History at the address in this notice by December 17, 2015.

**ADDRESSES:** Carolyn Reno, Shiloh Museum of Ozark History 118 W. Johnson Avenue, Springdale, AR 72764, telephone (479) 750–8165, email *creno@springdalear.gov.*

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Shiloh Museum of Ozark History, Springdale, AR. The human remains and associated funerary objects were removed from Beaver Lake, Washington County, AR (Shiloh Site 3WA128).

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

## Consultation

A detailed assessment of the human remains was made by the Shiloh Museum of Ozark History professional staff in consultation with

representatives of The Osage Nation (previously listed as the Osage Tribe).

**History and Description of the Remains**

In 1968, human remains representing, at minimum, one individual were removed from Shiloh Site 3WA128 Burial 2 in Washington County, AR, by the Northwest Arkansas Archaeological Society (N.W.A.A.S.) and donated to Shiloh Museum. The N.W.A.A.S. donation is the complete human remains of a child about eight years of age. The human remains date from between 500 B.C. to A.D. 1500. There is no lineal descendent or culturally affiliated contemporary Indian tribe that can be determined. No known individuals were identified. The 20 associated funerary objects include four blades, six blade fragments, eight projectile points, one projectile point fragment, and one punch.

**Determinations Made by the Shiloh Museum of Ozark History**

Officials of the Shiloh Museum of Ozark History have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on determination of age of remains (500 B.C.–A.D.1500), burial site in a bluff shelter, and associated burial material.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 20 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian tribe.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains and associated funerary objects may be to The Osage Nation (previously listed as the Osage Tribe).

**Additional Requestors and Disposition**

Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Carolyn Reno, Shiloh Museum of Ozark History, 118 W. Johnson Avenue, Springdale, AR 72764, telephone (479) 750–8165, email *creno@springdalear.gov,* by December 17, 2015. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Osage Nation (previously listed as the Osage Tribe) may proceed.

The Shiloh Museum of Ozark History is responsible for notifying The Osage Nation (previously listed as the Osage Tribe) that this notice has been published.

Dated: October 14, 2015.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2015–29359 Filed 11–16–15; 8:45 am]

BILLING CODE 4312–50–P

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## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NAGPRA–19607; PPWOCRADN0–PCU00RP14.R50000]**

## Notice of Inventory Completion: Neville Public Museum of Brown County, Green Bay, WI

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Neville Public Museum of Brown County has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Neville Public Museum of Brown County. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Neville Public Museum of Brown County at the address in this notice by December 17, 2015.

**ADDRESSES:** Louise Pfotenhauer, Neville Public Museum of Brown County, 210 Museum Place, Green Bay, WI 54303, telephone (920) 448–7845,email *Pfotenhauer_lc@co.brown.wi.us.*

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Neville Public Museum of Brown County, Green Bay, WI. The human remains and associated funerary objects were removed from Door County and Kewaunee County, WI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

**Consultation**

A detailed assessment of the human remains was made by the Neville Public Museum of Brown County professional staff in consultation with representatives of the Ho-Chunk Nation of Wisconsin and the Menominee Indian Tribe of Wisconsin.

**History and Description of the Remains**

In 1961, human remains representing, at minimum, one individual were removed from Rowleys Bay in Door County, WI. A partial skeleton of a 35–50 year-old person of indeterminate gender was discovered by landowner and excavated by a crew from Neville Public Museum of Brown County, under direction of Ron Mason. The human remains were brought to Neville Public Museum of Brown County after excavation. No known individuals were identified. The three associated funerary objects are 1 copper point, 1 antler flaker, and 1 vial with bone fragments and red ocher.

Associated copper point and red ocher suggest a Late Archaic date of burial. The Menominee and Ho-Chunk people are associated with long-term, pre-contact residence in northeast Wisconsin.

In 1961, human remains representing, at minimum, one individual were removed from Porte de Morts Site in Door County, WI. A partial skeleton of one adult of indeterminate gender was excavated by a crew from Neville Public Museum of Brown County, under direction of Ron J. Mason and Carol I.

Mason. The human remains were kept at Lawrence University until 1994 when they were returned to the Neville Public Museum of Brown County. No known individuals were identified. No associated funerary objects are present.

The burial was made by people of the North Bay (pre-contact Middle Woodland Period) culture. The Menominee and Ho-Chunk people are two tribes whose origins lie in eastern Wisconsin, although their connection to the North Bay culture is not directly established by archeological evidence.

Between 1900 and 1930, human remains representing, at minimum, one individual were removed from the DeBaker Farm, Red River, Kewaunee County, WI. A partial skeleton of one adult, possibly female, was discovered by John P. Schumacher. The human remains were among sherds donated to the Neville Public Museum of Brown County by John P. Schumacher in 1935. No known individuals were identified. The 38 associated funerary objects are pottery sherds.

Recognizable pottery types include North Bay (Middle Woodland Period), Point Sauble collared and Madison folded lip (both Late Woodland types) and undecorated Oneota sherds from the late prehistoric period. One sherd may be historic.

This location was ceded to the U.S. Government by the Menominee people but is near Red Banks, a place of ancestral origin of some Ho-Chunk clans. Accompanying sherds indicate a pre-contact burial date is likely, but not conclusive.

### Determinations Made by the Neville Public Museum of Brown County

Officials of the Neville Public Museum of Brown County have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 3 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 41 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and Ho-Chunk Nation of Wisconsin and Menominee Indian Tribe of Wisconsin.

### Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Louise Pfotenhauer, Neville Public Museum of Brown County, 210 Museum Place, Green Bay, WI 54303, telephone (920) 448–7845, email *Pfotenhauer_lc@co.brown.wi.us,* by December 17, 2015. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to Ho-Chunk Nation of Wisconsin and Menominee Indian Tribe of Wisconsin may proceed.

The Neville Public Museum of Brown County is responsible for notifying the Ho-Chunk Nation of Wisconsin and the Menominee Indian Tribe of Wisconsin that this notice has been published.

Dated: October 16, 2015.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2015–29352 Filed 11–16–15; 8:45 am]

BILLING CODE 4312–50–P

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## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NAGPRA–19581; PPWOCRADN0–PCU00RP14.R50000]**

### Notice of Inventory Completion: Hudson Museum, University of Maine, Orono, ME

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Hudson Museum has completed an inventory of human remains, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Hudson Museum, University of Maine. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Hudson Museum, University of Maine at the address in this notice by December 17, 2015.

**ADDRESSES:** Gretchen Faulkner, Hudson Museum, University of Maine, 5746 Collins Center for the Arts, Orono, ME 04469–5746, telephone (207) 581–1904, email *gretchen_faulkner@umit.maine.edu.*

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Hudson Museum, University of Maine, Orono, ME. The human remains were removed from Safety Harbor and Weeden Island, Pinellas County, FL.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

### Consultation

A detailed assessment of the human remains was made by Hudson Museum and University of Maine professional staff in consultation with representatives of the Miccosukee Tribe of Indians and the Seminole Tribe of Florida (previously listed as the Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations)).

### History and Description of the Remains

In 1928, human remains representing, at minimum, two individuals were removed from Weeden Island in Pinellas County, FL. They were excavated by Dr. Clarence Edmonds Hemingway (Ernest Hemingway's father) and were part of the Portland Society of Natural History Collection, which were transferred to the Hudson Museum in 1970. The human remains represent one male, age 25–40, and one female, age 30–60. No known individuals were identified. No associated funerary objects are present.

The human remains were examined by Marcella H. Sorg, Ph.D., D–ABFA, Forensic Anthropologist in July 2002, and she concluded that they were of Native American ancestry. Museum records and collection documentation identified these human remains as ''Calusa tribe Fla.'' Consultation identified both the Miccosukee Tribe of

Indians and the Seminole Tribe of Florida as the present-day Indian tribes with a shared group identity to these human remains.

On an unknown date, human remains representing, at minimum, one individual were removed from Safety Harbor, Pinellas, FL. These human remains were transferred by the Portland Society of Natural History. The human remains represent one male, age 18–50. No known individuals were identified. No associated funerary objects are present.

The human remains were examined by Marcella H. Sorg, Ph.D., D–ABFA, Forensic Anthropologist in July 2002, and she concluded that they were of Native American ancestry. Museum records and collection documentation identified these human remains as ''Timucua Tribe Fla.'' Consultation identified both the Miccosukee Tribe of Indians and the Seminole Tribe of Florida as the present-day Indian tribes with a shared group identity to these human remains.

**Determinations Made by the Hudson Museum, University of Maine**

Officials of the Hudson Museum, University of Maine have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of three individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Miccosukee Tribe of Indians and the Seminole Tribe of Florida (previously listed as the Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations).

**Additional Requestors and Disposition**

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Gretchen Faulkner, Hudson Museum, University of Maine, 5746 Collins Center for the Arts, Orono, ME 04469–5746, telephone (207) 581–1904, email *gretchen_faulkner@umit.maine.edu,* by December 17, 2015. After that date, if no additional requestors have come forward, transfer of control of the human remains to may proceed.

The Hudson Museum, University of Maine is responsible for notifying the Miccosukee Tribe of Indians and the Seminole Tribe of Florida (previously listed as the Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations)).

Dated: October 13, 2015.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2015–29357 Filed 11–16–15; 8:45 am]

**BILLING CODE 4312–50–P**

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## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–NER–ACAD–19391; PS.SACAD0001.00.1]**

### Boundary Revision of Acadia National Park

**AGENCY:** National Park Service, Interior.

**ACTION:** Notification of Boundary Revision.

**SUMMARY:** Notice is hereby given that, pursuant to appropriate authorities, the boundary of Acadia National Park in the State of Maine is modified to include approximately 1,441 acres of adjacent land. Following this boundary revision, the property will be donated to the United States and managed as a part of the park.

**DATES:** The effective date of this boundary revision is November 17, 2015.

**ADDRESSES:** The map depicting this boundary revision is available for inspection at the following locations: National Park Service, Land Resources Program Center, Northeast Region, New England Office, 115 John Street, 5th Floor, Lowell, MA 01852, and National Park Service, Department of the Interior, 1849 C Street NW., Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:** Deputy Realty Officer, Rachel McManus, National Park Service, Land Resources Program, Northeast Region, 115 John Street, 5th Floor, Lowell, MA 01852, telephone 978–970–5260.

**SUPPLEMENTARY INFORMATION:** The House Committee on Natural Resources and the Senate Committee on Energy and Resources have been notified of this boundary revision. The boundary revision is depicted on Map No. 123/129102 and dated July 10, 2015. This boundary revision and subsequent donation will contribute to, and is necessary for, the proper preservation, protection and interpretation of the important ecological, scenic, cultural, recreational, and shorefront resources of Acadia National Park and the scenic Schoodic Peninsula.

Dated: September 23, 2015.

**Jonathan Meade,**

*Deputy Regional Director, Northeast Region.*

[FR Doc. 2015–29329 Filed 11–16–15; 8:45 am]

**BILLING CODE 4310–WV–P**

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## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NAGPRA–19586; PPWOCRADN0–PCU00RP14.R50000]**

### Notice of Inventory Completion: Department of Anthropology at Indiana University, Bloomington, IN

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Department of Anthropology at Indiana University has completed an inventory of human remains and associated funerary objects in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Indiana University NAGPRA Office. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Indiana University NAGPRA Office at the address in this notice by December 17, 2015.

**ADDRESSES:** Dr. Jayne-Leigh Thomas, NAGPRA Director, Indiana University, NAGPRA Office, Student Building 318, 701 E. Kirkwood Avenue, Bloomington, IN 47405, telephone (812) 856–5315, email *thomajay@indiana.edu.*

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Department of Anthropology at Indiana University, Bloomington, IN.

This notice is published as part of the National Park Service's administrative

responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

**Consultation**

A detailed assessment of the human remains was made by Indiana University professional staff in consultation with representatives of the Peoria Tribe of Indians of Oklahoma.

**History and Description of the Remains**

On an unknown date, human remains representing, at minimum, 12 individuals from the Starved Rock site in La Salle County, IL, were donated to the Department of Anthropology at Indiana University. No known individuals were identified. There is one associated funerary object which is a bone bead. Notes indicate that these remains may have been excavated in the 1940s.

Starved Rock is a prominent landmark located on the southern bank of the upper Illinois River, with human habitation dating back over 8,000 years. This area is known to have been inhabited by tribes belonging to the Illinois Confederacy. Historical accounts report that Starved Rock was selected by La Salle as the site of Fort St. Louis during the late 17th century. It was then occupied by the Peoria people during the early 1700s. The human remains from this site have been determined to be likely Peoria, Kaskaskia, or from another tribe of the Illinois Confederacy; the modern day descendants are the Peoria Tribe of Indians of Oklahoma.

In 1956, human remains representing, at minimum, 1 individual, were donated to the Department of Anthropology at Indiana University from the Cincinnati Society of Natural History. Notes indicate that these remains may have been part of the Chicago Historical Society collections prior to 1950. The human remains are labeled as being from a 'Cascaskian' individual. No other information is present. No known individuals were identified. No associated funerary objects are present. The 'Cascaskia' or 'Kaskaskia' were one of the tribes which made up the Illinois Confederacy. The modern descendants are the Peoria Tribe of Indians of Oklahoma.

In 1974, human remains representing, at minimum, 17 individuals and 211 associated funerary objects, were donated to the Department of Anthropology at Indiana University from a private citizen. No known individuals were identified. The associated funerary objects include 1 flint chip, 86 glass beads, 103 shell beads, 1 corn cob fragment, 1 raccoon mandible, 1 piece of worked stone, 9 metal fragments, 1 metal cross, 2 metal beads, 3 pieces of preserved fabric, and 3 pieces of wood. Notes indicate that this collection was excavated from Fort Chartres in Randolph County, Illinois. Individuals are listed as being affiliated with the Illiniwek tribe.

When French explorers reached the upper Mississippi Valley during the 17th century, the area was heavily populated by the Illiniwek, also known as the Illinois Confederacy. In 1720, the French constructed a fort known as Fort de Chartres along the Mississippi River in IL. This fort was built near the Illiniwek villages and the French at Fort de Chartres began forming trade relationships with the Illinois tribes. As mentioned above, the modern descendants of the Illiniwek are the Peoria Tribe of Indians of Oklahoma.

**Determinations Made by Indiana University**

Officials of the Department of Anthropology at Indiana University have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 30 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 212 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Peoria Tribe of Indians of Oklahoma.

**Additional Requestors and Disposition**

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Dr. Jayne-Leigh Thomas, NAGPRA Director, Indiana University, NAGPRA Office, Student Building 318, 701 E. Kirkwood Avenue, Bloomington, IN 47405, telephone (812) 856–5315, email *thomajay@indiana.edu,* by December 17, 2015. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Peoria Tribe of Oklahoma may proceed.

Indiana University is responsible for notifying the Peoria Tribe of Oklahoma that this notice has been published.

Dated: October 14, 2015.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2015–29354 Filed 11–16–15; 8:45 am]

**BILLING CODE 4312–50–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 Electronic Devices Containing Strengthened Glass and Packaging Thereof, DN 3099;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing under section 210.8(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(b)).

**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 EDIS,[1] 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 USITC.[2] The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at EDIS.[3] Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

[1] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

[2] United States International Trade Commission (USITC): *http://edis.usitc.gov.*

[3] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

**SUPPLEMENTARY INFORMATION:** The Commission has received a complaint and a submission pursuant to section 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Saxon Glass Technologies, Inc. on November 10, 2015. 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 electronic devices containing strengthened glass and packaging thereof. The complaint names as a respondent Apple Inc. of Cupertino, CA. The complainant requests that the Commission issue a limited exclusion order, a cease and desist order, and a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or section 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions 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.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3099'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures).[4] 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 nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[5]

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 sections 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: November 10, 2015.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2015–29220 Filed 11–16–15; 8:45 am]

**BILLING CODE 7020–02–P**

[4] Handbook for Electronic Filing Procedures: *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf.*

[5] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

**[Docket No. OSHA–2007–0042]**

### TUV Rheinland of North America, Inc.: Grant of Expansion of Recognition

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

**ACTION:** Notice.

**SUMMARY:** In this notice, OSHA announces its final decision to expand the scope of recognition for TUV Rheinland of North America, Inc. (TUVRNA), as a Nationally Recognized Testing Laboratory (NRTL).

**DATES:** The expansion of the scope of recognition becomes effective on November 17, 2015.

**FOR FURTHER INFORMATION CONTACT:** Information regarding this notice is available from the following sources:

*Press inquiries:* Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3647, Washington, DC 20210; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

*General and technical information:* Contact Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210; telephone: (202) 693–2110; email: *robinson.kevin@dol.gov.* OSHA's Web page includes information about the NRTL Program (see *http://www.osha.gov/dts/otpca/nrtl/index.html*).

**SUPPLEMENTARY INFORMATION:**

### I. Notice of Final Decision

OSHA hereby gives notice of the expansion of the scope of recognition of TUV Rheinland of North America, Inc. (TUVRNA), as an NRTL. TUVRNA's expansion covers the addition of one recognized testing and certification site to their NRTL scope of recognition.

OSHA recognition of an NRTL signifies that the organization meets the requirements in Section 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products properly approved by the NRTL to meet OSHA standards that require testing and certification.

The Agency processes applications by an NRTL for initial recognition, or for expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In

the first notice, OSHA announces the application and provides its preliminary finding and, in the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational Web page for each NRTL that details its scope of recognition. These pages are available from the Agency's Web site at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

TUVRNA submitted an application, dated January 9, 2015 (OSHA–2007–0042–0013), to expand its recognition to include the addition of one recognized testing and certification sites located at: TUV Rheinland of North America, Inc. 1279 Quarry Lane, Pleasanton, CA 94566. OSHA staff performed a detailed analysis of the application and other pertinent information. OSHA staff also performed an on-site review of TUVRNA's Pleasanton, CA testing and certification facility on March 17, 2015, and recommended expansion of TUVRNA's recognition to include this one site.

OSHA published the preliminary notice announcing TUVRNA's expansion application in the **Federal Register** on August 10, 2015 (80 FR 47953). The Agency requested comments by August 25, 2015, but it received no comments in response to this notice. OSHA now is proceeding with this final notice to grant expansion of TUVRNA's scope of recognition.

To obtain or review copies of all public documents pertaining to the TUVRNA's application, go to *www.regulations.gov* or contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–2625, Washington, DC 20210. Docket No. OSHA–2007–0042 contains all materials in the record concerning TUVRNA's recognition.

## II. Final Decision and Order

OSHA staff examined TUVRNA's expansion application, conducted a detailed on-site assessment, and examined other pertinent information. Based on its review of this evidence, OSHA finds that TUVRNA meets the requirements of 29 CFR 1910.7 for expansion of its recognition, subject to the limitation and conditions listed below. OSHA, therefore, is proceeding with this final notice to grant TUVRNA's scope of recognition. OSHA limits the expansion of TUVRNA's recognition to include the site at TUV Rheinland of North America, Inc., 1279 Quarry Lane, Pleasanton, CA 94566 as listed above. OSHA's recognition of this site limits TUVRNA to performing product testing and certifications only to the test standards for which the site has the proper capability and programs, and for test standards in TUVRNA's scope of recognition. This limitation is consistent with the recognition that OSHA grants to other NRTLs that operate multiple sites.

### *A. Conditions*

In addition to those conditions already required by 29 CFR 1910.7, TUVRNA also must abide by the following conditions of the recognition:

1. TUVRNA must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in its operations as an NRTL, and provide details of the change(s);
2. TUVRNA must meet all the terms of its recognition and comply with all OSHA policies pertaining to this recognition; and
3. TUVRNA must continue to meet the requirements for recognition, including all previously published conditions on TUVRNA's scope of recognition, in all areas for which it has recognition.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the recognition of TUVRNA, subject to these limitations and conditions specified above.

### Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on November 12, 2015.

**David Michaels,**

*Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. 2015–29344 Filed 11–16–15; 8:45 am]

**BILLING CODE 4510–26–P**

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## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice: 15–104]**

## NASA Advisory Council; Meeting

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of Meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the NASA Advisory Council.

**DATES:** Tuesday, December 1, 2015, 1:00 p.m.–5:00 p.m.; Wednesday, December 2, 2015, 9:00 a.m.–5:00 p.m.; Thursday, December 3, 2015, 9:00 a.m.–11:00 a.m., Local Time.

**ADDRESSES:** NASA Johnson Space Center, Gilruth Conference Center, Lone Star Room, Room 216, 2101 NASA Parkway, Houston, TX 77508.

**FOR FURTHER INFORMATION CONTACT:** Ms. Marla King, NAC Administrative Officer, NASA Headquarters, Washington, DC 20546, (202) 358–1148.

**SUPPLEMENTARY INFORMATION:** This meeting will be open to the public to the meeting capacity of the room. This meeting is also available telephonically and by WebEx. You must use a touch tone phone to participate in this meeting. Any interested person may dial 1–888–469–1174 or toll number 1–517–308–9069, Passcode: ''NAC Meeting'' for all three days. **Note:** If dialing in, please ''mute'' your telephone. To join via WebEx, the link is *https://nasa.webex.com/;* the meeting number is 996 718 152 and the password is NACJSC2015* for all three days (password is case sensitive). The agenda for the meeting will include the following:

—Aeronautics Committee Report
—Human Exploration and Operations Committee Report
—Institutional Committee Report
—Science Committee Report
—Technology, Innovation and Engineering Committee Report
—Ad Hoc Task Force on STEM Education Report

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

**Patricia D. Rausch,**

*Advisory Committee Management Officer, National Aeronautics and Space Administration.*

[FR Doc. 2015–29335 Filed 11–16–15; 8:45 am]

**BILLING CODE 7510–13–P**

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## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### National Endowment for the Humanities

### Meetings of Humanities Panel

**AGENCY:** National Endowment for the Humanities.

**ACTION:** Notice of Meetings.

**SUMMARY:** The National Endowment for the Humanities will hold six meetings of the Humanities Panel, a federal advisory committee, during December, 2015. The purpose of the meetings is for panel review, discussion, evaluation, and recommendation of applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965.

**DATES:** See **SUPPLEMENTARY INFORMATION** section for meeting dates.

**ADDRESSES:** The meetings will be held at Constitution Center at 400 7th Street SW., Washington, DC 20506. See Supplementary Information for meeting room numbers.

**FOR FURTHER INFORMATION CONTACT:** Lisette Voyatzis, Committee Management Officer, 400 7th Street SW., Room 4060, Washington, DC 20506; (202) 606–8322; *evoyatzis@neh.gov*. Hearing-impaired individuals who prefer to contact us by phone may use NEH's TDD terminal at (202) 606–8282.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given of the following meetings:

1. *Date:* December 1, 2015
*Time:* 8:30 a.m. to 5:00 p.m.
*Room:* P002

This meeting will discuss applications on the subject of Historical Geography, for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

2. *Date:* December 3, 2015
*Time:* 8:30 a.m. to 5:00 p.m.
*Room:* 2002

This meeting will discuss applications on the subjects of Media Studies and Scholarly Communication (Level I), for Digital Humanities Start-Up Grants, submitted to the Office of Digital Humanities.

3. *Date:* December 4, 2015
*Time:* 8:30 a.m. to 5:00 p.m.
*Room:* 2002

This meeting will discuss applications on the subjects of Archives and Digital Collections II (Level I), for Digital Humanities Start-Up Grants, submitted to the Office of Digital Humanities.

4. *Date:* December 8, 2015
*Time:* 8:30 a.m. to 5:00 p.m.
*Room:* 4002

This meeting will discuss applications on the subjects of Languages and Linguistics (Level I and Level II), for Digital Humanities Start-Up Grants, submitted to the Office of Digital Humanities.

5. *Date:* December 9, 2015
*Time:* 8:30 a.m. to 5:00 p.m.
*Room:* 4002

This meeting will discuss applications on the subjects of Public Programs and Education (Level II), for Digital Humanities Start-Up Grants, submitted to the Office of Digital Humanities.

6. *Date:* December 14, 2015
*Time:* 8:30 a.m. to 5:00 p.m.
*Room:* 4002

This meeting will discuss applications for Fellowship Programs at Independent Research Institutions, submitted to the Division of Research Programs.

Because these meetings will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, the meetings will be closed to the public pursuant to sections 552b(c)(4) and 552b(c)(6) of Title 5, U.S.C., as amended. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated July 19, 1993.

Dated: November 12, 2015.

**Elizabeth Voyatzis,**

*Committee Management Officer.*

[FR Doc. 2015–29339 Filed 11–16–15; 8:45 am]

BILLING CODE 7536–01–P

## NATIONAL SCIENCE FOUNDATION

### Sunshine Act Meetings; National Science Board; Amendments

The National Science Board, pursuant to National Science Foundation (NSF) regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice of A CHANGE IN THE SCHEDULING OF TWO COMMITTEE MEETINGS during the National Science Board meetings on November 18–19, 2015.

**FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:** The original notice appeared in the **Federal Register** on November 13, 2015 at 80 FR 70259.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING:**

Ad hoc Task Force on NEON Performance and Plans (NPP)

Closed Session: 2:00–2:45 p.m., November 18, 2015.

Committee on Programs and Plans (CPP)

Closed Session: 3:00–3:50 p.m., November 18, 2015.

**CHANGES IN THE MEETING:**

New Times:

Committee on Programs and Plans (CPP)

Closed Session: 2:00–2:50 p.m., November 18, 2015.

Ad hoc Task Force on NEON Performance and Plans (NPP)

Closed Session: 3:05–3:50 p.m., November 18, 2015.

Updates: Please refer to the National Science Board Web site for additional information. Meeting information and schedule updates (time, place, subject matter or status of meeting) may be found at *http://www.nsf.gov/nsb/meetings/notices.jsp.*

**Kyscha Slater-Williams,**

*Program Specialist, National Science Board.*

[FR Doc. 2015–29482 Filed 11–13–15; 4:15 pm]

BILLING CODE 7555–01–P

## NATIONAL SCIENCE FOUNDATION

### Notice of Permits Issued Under the Antarctic Conservation Act of 1978

**AGENCY:** National Science Foundation.

**ACTION:** Notice of permits issued under the Antarctic Conservation of 1978, Public Law 95–541.

**SUMMARY:** The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

**FOR FURTHER INFORMATION CONTACT:** Nature McGinn, ACA Permit Officer, Division of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Or by email: *ACApermits@nsf.gov.*

**SUPPLEMENTARY INFORMATION:** On September 30, 2015 the National Science Foundation published a notice in the **Federal Register** of a permit application received. The permit was issued on November 6, 2015 to:

**Permit No. 2016–015**

James Droney, Vice President of Itinerary, and Destination Planning, The World of Redinsea II, Ltd.

**Nadene G. Kennedy,**

*Polar Coordination Specialist, Division of Polar Programs.*

[FR Doc. 2015–29235 Filed 11–16–15; 8:45 am]

BILLING CODE 7555–01–P

## NATIONAL SCIENCE FOUNDATION

### Notice of Permit Modification Received Under the Antarctic Conservation Act of 1978

**AGENCY:** National Science Foundation.

**ACTION:** Notice of Permit Modification Request Received and Permit Issued under the Antarctic Conservation Act of 1978, Public Law 95–541.

**SUMMARY:** The National Science Foundation (NSF) is required to publish a notice of requests to modify permits issued to conduct activities regulated and permits issued under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of a requested permit modification and permit issued.

**FOR FURTHER INFORMATION CONTACT:** Nature McGinn, ACA Permit Officer, Division of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Or by email: *ACApermits@nsf.gov*.

**SUPPLEMENTARY INFORMATION:** The Foundation issued a permit (ACA 2011–002) to David Ainley on May 28, 2010. The issued permit allows the applicant to band, apply instruments, weigh, collect blood and cloacal swabs, and mark nests of Adelie penguins located at Cape Crozier (ASPA 124), Cape Royds (ASPA 121), Cape Bird, and Beaufort Island (ASPA 105), as well as to enter Cape Hallett (ASPA 106) in November 2014 to check for banded birds.

A recent modification to this permit, dated November 14, 2014, permitted the applicant to deploy temperature loggers in penguin nests to test hypotheses on nest quality.

Now the applicant proposes a permit modification to extend the duration of his permit for another year, so that it expires on August 31, 2016. The Environmental Officer has reviewed the modification request and has determined that the amendment is not a material change to the permit, and it will have a less than a minor or transitory impact.

**DATES:** November 12, 2015 to August 31, 2016.

The permit modification was issued on November 12, 2015.

**Nadene G. Kennedy,**

*Polar Coordination Specialist, Division of Polar Programs.*

[FR Doc. 2015–29345 Filed 11–16–15; 8:45 am]

**BILLING CODE 7555–01–P**

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–271; NRC–2015–0029]**

### Entergy Nuclear Operations, Inc.; Vermont Yankee Nuclear Power Station

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** License amendment application; withdrawal by applicant.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) has granted the request of Entergy Nuclear Operations, Inc. (Entergy, the licensee), to withdraw its application dated September 4, 2014, for a proposed amendment to Renewed Facility Operating License No. DPR–28, for the Vermont Yankee Nuclear Power Station (VY). The proposed amendment would have replaced VY's decommissioning trust fund (DTF) license conditions with the NRC's regulations governing decommissioning trust funds.

**DATES:** November 17, 2015.

**ADDRESSES:** Please refer to Docket ID NRC–2015–0029 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0029. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov*. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- NRC's Agencywide Documents Access and Management System (ADAMS): You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS Search*.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The ADAMS accession number for each document referenced (if that document is available in ADAMS) is provided the first time that a document is referenced.
- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

**FOR FURTHER INFORMATION CONTACT:** James Kim, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–4125; email: *James.Kim@nrc.gov*.

**SUPPLEMENTARY INFORMATION:** The NRC has granted the request of Entergy Nuclear Operations, Inc. (Entergy, the licensee), to withdraw its application dated September 4, 2014 (ADAMS Accession No. ML14254A405), for a proposed amendment to Renewed Facility Operating License No. DPR–28, for VY, located in Windam County, Vermont. The proposed amendment would have replaced VY's DTF license conditions with the DTF provisions in paragraph 50.75(h) of Title 10 of the *Code of Federal Regulations* (CFR).

The NRC published a Biweekly Notice in the **Federal Register** on February 17, 2015 (80 FR 8359), that gave notice that this proposed amendment was under consideration by the NRC. However, by letter dated September 22, 2015 (ADAMS Accession No. ML15267A074), the licensee requested to withdraw the proposed amendment.

Dated at Rockville, Maryland, this 10th day of November 2015.

For the Nuclear Regulatory Commission.

**Meena K. Khanna,**

*Chief, Plant Licensing Branch IV–2 and Decommissioning Transition Branch, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

[FR Doc. 2015–29300 Filed 11–16–15; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2015–0001]**

### Sunshine Act Meeting Notice

**DATE:** November 16, 23, 30, December 7, 14, 21, 2015.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and closed.

**Week of November 16, 2015**

*Tuesday, November 17, 2015*

9:00 a.m. Briefing on the Status of Lessons Learned from the Fukushima Dai-Ichi Accident (Public Meeting)
(Contact: Gregory Bowman: 301–415–2939)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/*.

*Thursday, November 19, 2015*

9:00 a.m. Hearing on Combined Licenses for South Texas Project,

Units 3 and 4: Section 189a. of the Atomic Energy Act Proceeding (Public Meeting)
(Contact: Tom Tai: 301–415–8484)
This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

**Week of November 23, 2015—Tentative**

There are no meetings scheduled for the week of November 23, 2015.

**Week of November 30, 2015—Tentative**

*Thursday, December 3, 2015*

9:30 a.m. Briefing on Equal Employment Opportunity and Civil Rights Outreach (Public Meeting)
(Contact: Larniece McKoy Moore: 301–415–1942)
This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

**Week of December 7, 2015—Tentative**

There are no meetings scheduled for the week of December 7, 2015.

**Week of December 14, 2015—Tentative**

*Tuesday, December 15, 2015*

9:00 a.m. Hearing on Construction Permit for SHINE Medical Isotope Production Facility: Section 189a. of the Atomic Energy Act Proceeding (Public Meeting)
(Contact: Steven Lynch: 301–415–1524)
This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

*Thursday, December 17, 2015*

9:30 a.m. Briefing on Project AIM 2020 (Public Meeting)
(Contact: John Jolicoeur 301–415–1642)
This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

**Week of December 21, 2015—Tentative**

There are no meetings scheduled for the week of December 21, 2015.

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The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.*

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The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email *Brenda.Akstulewicz@nrc.gov* or *Patricia.Jimenez@nrc.gov.*

Dated: November 10, 2015.

**Denise L. McGovern,**

*Policy Coordinator, Office of the Secretary.*

[FR Doc. 2015–29404 Filed 11–13–15; 11:15 am]

BILLING CODE 7590–01–P

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–76409; File No. SR–BX–2015–066]**

### Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish the Securities Trader and Securities Trader Principal Registration Categories

November 10, 2015.

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 4, 2015, NASDAQ OMX BX, Inc. (''BX'' 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 establish the Securities Trader and Securities Trader Principal registration categories and to retire the Limited Representative—Proprietary Trader and Limited Principal—Proprietary Trader registration categories. The Exchange is also amending its rules to establish the Series 57 examination as the appropriate qualification examination for Securities Traders and deleting the rule referring to the S501 continuing education program currently applicable to Proprietary Traders.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxbx.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 is proposing to replace the Proprietary Trader registration category (the ''Proprietary Trader'' registration category) and Proprietary Trader qualification examination (Series 56) with the Securities Trader registration category and Securities Trader qualification examination (Series 57) in its registration rules relating to securities trading activity. Similarly, the Exchange proposes to replace the Limited Principal—Proprietary Trader registration category (the ''Proprietary Trader Principal'' registration category) with the Securities Trader Principal registration category.

This filing is, in all material respects, based upon SR–FINRA–2015–017, which was recently approved by the Commission.[3]

I. Securities Trader Registration Category

Today, BX Rule 1032(a) requires each person associated with a member who is included within the definition of a

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 75783 (August 28, 2015), 80 FR 53369 (September 3, 2015) (approving SR–FINRA–2015–017) (the ''FINRA Amendments'').

Representative[4] to register with the Exchange as a General Securities Representative and to pass an appropriate Qualification Examination before such registration may become effective unless his or her activities are so limited as to qualify him for one or more limited categories of representative registration specified in Rule 1032. Subparagraph (b) to Rule 1032 sets forth the Proprietary Trader category of registration limited to persons who are associated with a proprietary trading firm[5] and whose activities in the investment banking or securities business are limited solely to proprietary trading. Persons who deal with the public do not fit in this registration category and must continue to register as General Securities Representatives.[6]

The Exchange is proposing to retire the Proprietary Trader registration category by deleting current Rule 1032(b) and adopting proposed Rule 1032(b) establishing the new Securities Trader registration category. Proposed Rule 1032(b) requires that each person associated with a member who is included within the definition of a representative as defined in Rule 1011 must register with the Exchange as a Securities Trader if, with respect to transactions in equity, preferred or convertible debt securities, or foreign currency options on the Exchange, such person is engaged in proprietary trading, the execution of transactions on an agency basis, or the direct supervision of such activities, other than any person associated with a member whose trading activities are conducted principally on behalf of an investment company that is registered with the Commission pursuant to the Investment Company Act of 1940 and that controls, is controlled by or is under common control, with the member (an ''investment company firm''). The proposed language requires applicants to pass an appropriate Qualification Examination for Securities Trader (the Series 57 examination) before registering in the new Securities Trader category. It also provides that a person registered as a Securities Trader shall not be qualified to function in any other registration category, unless he or she is also qualified and registered in such other registration category.

A person registered as a Proprietary Trader in the Central Registration Depository (CRD®) system on the effective date of the proposed rule change will be grandfathered as a Securities Trader without having to take any additional examinations and without having to take any other actions. In addition, individuals who were registered as a Proprietary Trader in the CRD system prior to the effective date of the proposed rule change will be eligible to register as Securities Traders without having to take any additional examinations, provided that no more than two years have passed between the date they were last registered as a representative and the date they register as a Securities Trader.

Persons registered in the new category would be subject to the continuing education requirements of Rule 1120. The Exchange proposes to amend Rule 1120(a) by removing the option for Series 56 registered persons to participate in the S501 Series 56 Proprietary Trader continuing education program in order to satisfy the Regulatory Element. The S501 Series 56 Proprietary Trader continuing education program is being phased out along with the Series 56 Proprietary Trader qualification examination. As a result, effective January 4, 2016, the S501 Series 56 Proprietary Trader continuing education program for Series 56 registered persons will cease to exist. In place of the S501 Series 56 Proprietary Trader continuing education program for Series 56 registered persons, the Exchange proposes that Series 57 registered persons be permitted to enroll in the S101 General Program for Series 7 and all other registered persons.[7]

II. Securities Trader Principal Registration Category

Currently, Exchange Rule 1021 requires all persons engaged or to be engaged in the investment banking or securities business of a member who are to function as principals to be registered as such with the Exchange in the category of registration appropriate to the function to be performed as specified in Rule 1022.[8] Before their registration can become effective, they are required to pass a Qualification Examination for Principals appropriate to the category of registration as specified by the Exchange Board. Pursuant to Rule 1021(b), persons associated with a member as sole proprietor, officer, partner, manager of office of supervisory jurisdiction or corporate director, who are actively engaged in the management of the member's investment banking or securities business, including supervision, solicitation, conduct of business or the training of persons associated with a member for any of these functions, are designated as Principals.

Rule 1022 lists the categories of principal registration. In addition to ''General Securities Principal,'' which is the broadest category, there are three limited categories of principal registration: Financial and Operations, General Securities Sales Supervisor, and Proprietary Trader. Pursuant to Rule 1022(h), the Proprietary Trader Principal category is available for persons whose supervisory responsibilities in the investment banking and securities business are limited to the activities of a member that involve proprietary trading. Currently, Rule 1022 requires that such persons be registered pursuant to Exchange rules as a Proprietary Trader, be qualified to be so registered by passing the Series 24 examination (the same qualification required for registration as a General Securities Principal), and not function in a principal capacity with responsibility over any area of business activity other than proprietary trading. Under Exchange Rule 1032(b)(1)(B), the prerequisite examination for the

[4] ''Representative'' is defined in Rule 1011 as an Associated Person of a registered broker or dealer who is engaged in the investment banking or securities business for the member including the functions of supervision, solicitation or conduct of business in securities or who is engaged in the training of persons associated with a broker or dealer for any of these functions are designated as representatives. As provided in Rule 1031, all Representatives of BX members are required to be registered with the Exchange, and Representatives that are so registered are referred to as ''Registered Representatives''.

[5] ''Proprietary trading firm'' is defined in Rule 1011 as an Applicant with the following characteristics: (1) The Applicant is not required by Section 15(b)(8) of the Act to become a FINRA member but is a member of another registered securities exchange not registered solely under Section 6(g) of the Act; (2) all funds used or proposed to be used by the Applicant for trading are the Applicant's own capital, traded through the Applicant's own accounts; (3) the Applicant does not, and will not have ''customers,'' as that term is defined in Equity Rule 0120(g); and(4) all Principals and Representatives of the Applicant acting or to be acting in the capacity of a trader must be owners of, employees of, or contractors to the Applicant.

[6] Persons who are registered as General Securities Representatives and have passed the Series 7 may perform the functions of a Proprietary Trader. Associated persons may register as General Securities Representatives upon passing the Series 7 examination and then function as a Proprietary Trader.

[7] The Commission notes that amended Rule 1120(a)(1) would require Series 57 registered persons to take the S101 General Program. *See* Rule 1120(a)(1).

[8] Additionally, Rule 1021(e), Requirement of Two Registered Principals for Members, establishes that an Exchange member, except a sole proprietorship, shall have at least two officers or partners who are registered as principals with respect to each aspect of the member's investment banking and securities business pursuant to the applicable provisions of Rule 1022; provided, however, that a proprietary trading firm with 25 or fewer registered representatives shall only be required to have one officer or partner who is registered as a principal.

Proprietary Trader Principal category is the Series 56 examination.

In consultation with FINRA and other exchanges, the Exchange is now proposing to retire the Proprietary Trader Principal category. Accordingly, it is deleting Rule 1022(h) in its entirety. In its place the Exchange is adopting new Rule 1022(h), which adds a new Securities Trader Principal registration category. Under the proposed rule each person associated with a member who is included within the definition of principal in Rule 1021 and who will have supervisory responsibility over the securities trading activities described in Rule 1032(b) must become qualified and registered as a Securities Trader Principal. The proposed rule change should allow BX to more easily track principals with supervisory responsibility over securities trading activities.

To qualify for registration as a Securities Trader Principal, a candidate would first be required to qualify and register as a Securities Trader under Rule 1032(b) and pass the General Securities Principal qualification examination. A person who is qualified and registered as a Securities Trader Principal under the new rule would only have supervisory responsibility over the securities trading activities specified in Rule 1032(b), unless such person were separately qualified and registered in another appropriate principal registration category, such as the General Securities Principal registration category. Finally, a registered General Securities Principal would not be qualified to supervise the securities trading activities described in Rule 1032(b), unless such person also qualified and registered as a Securities Trader under Rule 1032(b) by passing the Securities Trader qualification examination and registered as a Securities Trader Principal.

A person registered as a Proprietary Trader Principal in the CRD system on the effective date of the proposed rule change will be eligible to register as a Securities Trader Principal without having to take any additional examinations. An individual who was registered as a Proprietary Trader Principal in the CRD system prior to the effective date of the proposed rule change will also be eligible to register as a Securities Trader Principal without having to take any additional examinations, provided that no more than two years have passed between the date they [sic] were last registered as a principal and the date they [sic] register as a Securities Trader Principal. Members, however, will be required to affirmatively register persons transitioning to the proposed registration category as Securities Trader Principals on or after the effective date of the proposed rule change.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [9] in general, and furthers the objectives of Section 6(b)(5) of the Act [10] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The Exchange believes that the requirements of the Securities Trader and Securities Trader Principal registration categories, as well as the new Securities Trader qualification examination, should help ensure that proprietary traders and the principals who supervise proprietary traders and proprietary trading are, and will continue to be, properly trained and qualified to perform their functions which should protect investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Implementation of the proposed changes to BX's registration rules in coordination with the FINRA Amendments does not present any competitive issues, but rather is designed to provide less burdensome and more efficient regulatory compliance for members and enhance the ability of the Exchange to fairly and efficiently regulate members, which will further enhance competition. Additionally, the proposed rule change should not affect intramarket competition because all similarly situated representatives and principals will be required to complete the same qualification examinations and maintain the same registrations. Finally, the proposed rule change does not impose any additional examination burdens on persons who are already registered. There is no obligation to take the proposed Series 57 examination in order to continue in their present duties, so the proposed rule change is not expected to disadvantage current registered persons relative to new entrants in this regard.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

*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 [11] and subparagraph (f)(6) of Rule 19b–4 thereunder.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (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–2015–066 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–BX–2015–066.* This file

[11] 15 U.S.C. 78s(b)(3)(a)(iii).

[12] 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.

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 Web site (*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 Web site 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number *SR–BX–2015–066* and should be submitted on or before December 8, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–29225 Filed 11–16–15; 8:45 am]

**BILLING CODE 8011–01–P**

[13] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–76417; File No. SR–EDGA–2015–43]**

### Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees

November 10, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 2, 2015, EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') 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 Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend its fees and rebates applicable to Members[5] and non-members of the Exchange pursuant to EDGA Rule 15.1(a) and (c) (''Fee Schedule'').

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.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 parts of such statements.

*(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to increase the fee for orders yielding fee code D, which results from an order routed to the New York Stock Exchange (''NYSE'') or routed using the RDOT routing strategy. In securities priced at or above $1.00, the Exchange currently assesses a fee of $0.0027 per share for Members' orders that yield fee code D. The Exchange proposes to amend its Fee Schedule to increase this fee to $0.00275 per share. The proposed change would enable the Exchange to pass through the rate that BATS Trading, Inc. (''BATS Trading''), the Exchange's affiliated routing broker-dealer, is charged for routing orders to NYSE when it does not qualify for a volume tiered reduced fee. The proposed change is in response to NYSE's November 2015 fee change where NYSE increased the fee to remove liquidity via routable order types it charges its customers, from a fee of $0.0027 per share to a fee of $0.00275 per share.[6] When BATS Trading routes to NYSE, it will now be charged a standard rate of $0.00275 per share. BATS Trading will pass through this rate to the Exchange and the Exchange, in turn, will pass through of a rate of $0.00275 per share to its Members. The proposed increase to the fee under fee code D would enable the Exchange to equitably allocate its costs among all Members utilizing fee code D. The Exchange proposes to implement this amendment to its Fee Schedule immediately.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The term ''Member'' is defined as ''any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange [sic]. A Member will have the status of a ''member'' of the Exchange as that term is defined in Section 3(a)(3) of the Act.'' *See* Exchange Rule 1.5(n).

In addition to the change proposed above, the Exchange proposes to change certain references on the Fee Schedule in connection with the launch of the options exchange operated by the Exchange's affiliate, EDGX Exchange, Inc. (''EDGX Options''). First, the Exchange propose [*sic*] to modify references in the Unicast Access section under BATS Connect fees to refer to ''BZX Options'' instead of ''BATS Options''. Second, the Exchange proposes to add reference to EDGX Options in the list of Exchange affiliates to which such fees do not apply.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[7] in general, and furthers the objectives of Section 6(b)(4),[8] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange believes that its proposal to increase the fee for Members' orders that yield fee code D from $0.0027 per share to $0.00275 per share represents an

[6] *See* NYSE Trader Update, Fee Changes Effective November 2, dated October 30, 2015, *available at https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Client_Notice_Fee_Change_11_2015.pdf.*

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(4).

equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities because the Exchange does not levy additional fees or offer additional rebates for orders that it routes to NYSE through BATS Trading. As of November 1, 2015 [sic], NYSE amended its fee to remove liquidity via routable order types it charges its customers, from a fee of $0.0027 per share to a fee of $0.00275 per share.[9] Therefore, the Exchange believes that its proposal to pass through a fee of $0.00275 per share for orders that yield fee code D is equitable and reasonable because it accounts for the pricing changes on NYSE. In addition, the proposal allows the Exchange to continue to charge its Members a pass-through rate for orders that are routed to NYSE. Furthermore, the Exchange notes that routing through BATS Trading is voluntary. Lastly, the Exchange also believes that the proposed amendment is non-discriminatory because it applies uniformly to all Members. The Exchange also believes that the changes to add EDGX Options to the list of affiliates under Unicast Access and the re-naming of BATS Options as BZX Options is consistent with the Act. Such changes reflect and are in connection with the launch of EDGX Options but do not result in any material change to the Exchange's Fee Schedule or impose any new or different fee.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

These proposed rule changes do not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that any of these changes represent a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Additionally, Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets. The Exchange believes that its proposal to pass through a fee of $0.00275 per share for Members' orders that yield fee code D would increase intermarket competition because it offers customers an alternative means to route to NYSE. The Exchange believes that its proposal would not burden intramarket competition because the proposed rate would apply uniformly to all Members.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and paragraph (f) of Rule 19b–4 thereunder.[11] 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–EDGA–2015–43 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–EDGA–2015–43. 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 Web site (*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 Web site 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 will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGA–2015–43 and should be submitted on or before December 8, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–29221 Filed 11–16–15; 8:45 am]

**BILLING CODE 8011–01–P**

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–76427; File No. SR–NYSEMKT–2015–76]**

## Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing of Proposed Rule Change Constituting a Stated Interpretation With Respect to the Meaning, Administration, and Enforcement of Rule 28—Equities

November 12, 2015.

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 October 28, 2015, NYSE MKT LLC (the "Exchange" or "NYSE MKT") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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[9] *See supra* note 6.

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f).

[12] 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.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to constitute a stated interpretation with respect to the meaning, administration, and enforcement of Rule 28—Equities (''Rule 28''). The proposed rule change is available on the Exchange's Web site 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 a rule change that constitutes a stated interpretation with respect to the meaning, administration, and enforcement of Rule 28. The Exchange is not proposing any changes to the text of the current version of Rule 28.

Rule 28 describes and provides the basis for the Exchange's practice of conducting fingerprint-based criminal record checks. The Rule permits the Exchange to obtain fingerprints of prospective and current employees, temporary personnel, independent contractors and service providers of the Exchange and its principal subsidiaries; submit those fingerprints to the Attorney General of the United States or his or her designee (''Attorney General'') for identification and processing; and receive criminal history record information from the Attorney General for evaluation and use, in accordance with applicable law, in enhancing the security of the facilities, systems, data, and/or records of the Exchange and its principal subsidiaries.

The Exchange utilizes a Live-Scan [4] electronic system to capture and transmit fingerprints directly to the Federal Bureau of Investigation (''FBI''), which maintains on behalf of the Attorney General a database of fingerprint-based criminal history records. The capture and transmittal function, and corresponding receipt of criminal history information from the FBI, is handled directly by Exchange personnel. The Exchange intends to engage an FBI-approved ''Channel Partner'' [5] to maintain and operate, on behalf of the Exchange, a Live-Scan and/or other electronic system(s) for the submission of fingerprints to the FBI; to receive and maintain criminal history record information from the FBI; and to disseminate such information, through secure systems, to a limited set of approved reviewing officials within the Exchange and its affiliates. The Exchange believes Rule 28 allows for the retention of a Channel Partner for these purposes.[6]

The foregoing interpretation is consistent with the Exchange's authority under Section 17(f)(2) of the Act, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (''Dodd-Frank Act''),[7] which requires, *inter alia,* that employees of exchanges be fingerprinted and that exchanges ''shall submit such fingerprints, or cause the same to be submitted, to the Attorney General of the United States for identification and appropriate processing.'' The Exchange further notes that the proposed interpretation is consistent with the rules and procedures at other self-regulatory organizations (''SROs'').[8]

The Exchange accordingly believes that under Rule 28 and applicable statutes, the Exchange has the authority to engage an FBI-approved Channel Partner for some or all of the fingerprinting processes described in the Rule. The Exchange believes that this proposed interpretation would ensure the Exchange's continued compliance with its Rules and applicable state and federal law.[9]

2. Statutory Basis

The Exchange believes that the proposed rule change 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, because it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest. The Exchange believes that the proposed stated interpretation would enable the Exchange to continue to identify and exclude persons with felony or misdemeanor conviction records that may pose a threat to the safety of Exchange personnel or the security of facilities and records, thereby enhancing business continuity, workplace safety and the security of the Exchange's operations and helping to protect investors and the public interest.

Continuing to run fingerprint-based background checks is imperative for the Exchange and its affiliates, as this process helps to identify persons with criminal history records who may pose a threat to the safety of Exchange personnel and/or the security of Exchange facilities and records. This identification and screening process thus enhances business continuity,

[4] Live-Scan refers to the process of capturing fingerprints directly into a digitized format as opposed to traditional ink and paper methods. Live-Scan technology captures and transfers images to a central location and/or interface for identification processing.

[5] FBI-approved Channel Partners receive the fingerprint submission and relevant data, collect the associated fee(s), electronically forward the fingerprint submission with the necessary information to the FBI Criminal Justice Information Services Division (''CJIS'') for a national Criminal History Summary check, and receive the electronic summary check result for dissemination to the authorized employer entity. *See* Securities Exchange Act Release No. 71066 (December 12, 2013), 78 FR 76667 (December 18, 2013) (SR–ISE–2013–66).

[6] Rule 28 allows the Exchange to obtain fingerprints from service providers, including employees of affiliates of the Exchange. *See* Chicago Board Options Exchange, Incorporated (''CBOE'') Rule 15.10; Securities Exchange Act Release No. 69496 (May 2, 2013), 78 FR 26671, 26671 (May 7, 2013) (SR–CBOE–2013–044) (CBOE conducts fingerprint-based criminal record checks of directors, officers and employees as well as, without limitation, ''temporary personnel, independent contractors, consultants, vendors and service providers . . . who have or are anticipated to have access to facilities and records.'').

[7] *See* 15 U.S.C. 17(f)(2) [sic]; Dodd-Frank Act Sect. 929S.

[8] *See* International Securities Exchange (''ISE'') Rule 1408; Chicago Board Options Exchange (''CBOE'') Rule 15.10. *See generally* Securities Exchange Act Release No. 71066 (December 12, 2013), 78 FR 76667, 76668 n. 12 (December 18, 2013) (SR–ISE–2013–66) (noting that ''[a]n FBI-approved Channel Partner simply helps expedite the delivery of Criminal History Summary information on behalf of the FBI'', and that the ''process for making a request through an FBI-approved Channel Partner is consistent with FBI submission procedures'').

[9] Access to the FBI's fingerprint-based database of criminal records is permitted only when authorized by law. Section 17(f)(2) of the Act explicitly directs the Attorney General to provide SROs designated by the Commission (*e.g.,* the Exchange) with access to such criminal history record information. Further, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Section 17(f)(2) specifically requires, inter alia, that employees of national securities exchanges be fingerprinted. New York's General Business Law also requires SROs to fingerprint employees ''as a condition of employment,'' as well as certain non-employee service providers. N.Y. Gen. Bus. Law § 359–e (McKinney).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

workplace safety, and the security of the Exchange's operations. The use of an FBI-approved Channel Partner in some or all phases of this process is consistent with Rule 28 and applicable state and federal law, and in furtherance of the important objectives described herein. Additionally, the use of a Channel Partner is consistent with the fingerprinting method currently employed by other SROs.[12] For all these reasons, the proposal is also designed to protect investors as well as the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change would enhance the security of the Exchange's facilities and records without adding any burden on market participants and allow the Exchange continued compliance with its fingerprinting rules and with Section 17(f)(2) of the Act as amended by the Dodd-Frank Act.[13]

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)[14] of the Act and Rule 19b–4(f)(1)[15] thereunder. The proposed rule change effects a change that constitutes a stated policy, practice or interpretation with respect to the meaning, administration, or enforcement of an existing rule.

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–NYSEMKT–2015–76 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–NYSEMKT–2015–76. 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 Web site (*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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2015–76 and should be submitted on or before December 8, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–29290 Filed 11–16–15; 8:45 am]

**BILLING CODE 8011–01–P**

[12] *See* note 8, *supra.*

[13] *See* Section 929S of the Dodd-Frank Act.

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–76406; File No. SR–NYSE–2015–55]**

## Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Discontinue the NYSE Realtime Reference Price Market Data Product Offering

November 10, 2015.

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 October 30, 2015, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to discontinue the NYSE Realtime Reference Price (''NYSE RRP'') market data product offering. The text of the proposed rule change is available on the Exchange's Web site 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,

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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

In 2009, the Securities and Exchange Commission (''Commission'') approved the NYSE RRP market data product and certain fees for it.[4] The NYSE RRP market data product provides, on a real-time basis, last sale prices in all securities that trade on the Exchange. Currently, there are no subscribers to the NYSE RRP market data product. Therefore, the Exchange has determined to discontinue the NYSE RRP market data product. The Exchange also proposes to update the Fee Schedule to remove reference to the NYSE RRP in connection with this change.

The Exchange will announce the date that the NYSE RRP will be decommissioned via an NYSE Market Data Notice.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)[5] of the Act, in general, and furthers the objectives of Section 6(b)(5)[6] of the Act, 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 mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, and it is not designed to permit unfair discrimination among customers, brokers, or dealers.

The Exchange believes that discontinuing NYSE RRP and removing it from the Fee Schedule would remove impediments to and perfect a free and open market by streamlining the Exchange's market data product offerings to include those for which there has been more demand and would provide vendors and subscribers with a simpler and more standardized suite of market data products. The proposal to discontinue NYSE RRP is applicable to all members, issuers and other persons and does not unfairly discriminate between customers, issuers, brokers or dealers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique market data to consumers of such data. It was believed that this authority would expand the amount of data available to users and consumers of such data and also spur innovation and competition for the provision of market data. The Commission concluded that Regulation NMS—by lessening regulation of the market in proprietary data—would itself further the Act's goals of facilitating efficiency and competition:

> [E]fficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.[7]

The Exchange believes that the discontinuation of a market data product for which there is little or no demand, as is the case with NYSE RRP, is a direct example of efficiency because it acknowledges that investors and the public have indicated that they have little or no use for certain information and allows the Exchange to dedicate resources to developing products (including through innovations of existing products and entirely new products) that provide information for which there is more of an expressed need.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,[8] the Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange notes that it operates in a highly competitive market in which other exchanges are free to offer similar products. Additionally, since there has been little or no demand for the NYSE RRP product the Exchange's proposed discontinuance will not harm competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given 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,[9] the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6) 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.

A proposed rule change filed under Rule 19b–4(f)(6)[13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative because it believes that immediate operation of this filing would not impact any users of NYSE RRP. The Commission, noting that there are currently no subscribers to these data

[4] *See* Securities Exchange Act Release No. 60004 (May 29, 2009), 74 FR 26905 (June 4, 2009) (SR–NYSE–2009–42).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005) (File No. S7–10–04).

[8] 15 U.S.C. 78f(b)(8).

[9] The Exchange has fulfilled this requirement.

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] 15 U.S.C. 78s(b)(2)(B).

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

services, finds that it is consistent with the protection of investors and the public interest to waive the 30-day operative date and to permit the proposal to take effect upon filing.[15]

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2015–55 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–NYSE–2015–55. 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 Web site (*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 Web site 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 will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2015–55 and should be submitted on or before December 8, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–29219 Filed 11–16–15; 8:45 am]

BILLING CODE 8011–01–P

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–76403; File No. SR–Phlx–2015–87]**

## Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding NASDAQ Last Sale Plus

November 10, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 27, 2015, NASDAQ OMX PHLX LLC (''Phlx'' 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 Chapter VIII of NASDAQ OMX PSX Fees (''PSX Chapter VIII''), in the section entitled PSX Last Sale Data Feeds and NASDAQ Last Sale Plus Data Feeds (''Last Sale''), with language clarifying that the data consolidation component of the fees for NASDAQ Last Sale Plus (''NLS Plus''), a comprehensive data feed offered by NASDAQ OMX Information LLC,[3] will be charged solely to firms that are Internal Distributors and External Distributors (collectively, ''Distributors'' of the data feed) that receive a NLS Plus direct data feed.[4]

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.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 this proposal is to amend PSX Chapter VIII, Last Sale (b) with language clarifying that the data consolidation component of the fees for NLS Plus will be charged solely to firms that are Distributors that receive an NLS Plus direct data feed.[5]

NLS Plus[6] allows data distributors to access last sale products offered by each

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[15] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] NASDAQ OMX Information LLC is a subsidiary of Nasdaq, Inc. (formerly, The NASDAQ OMX Group, Inc.), separate and apart from The NASDAQ Stock Market LLC. The primary purpose of NASDAQ OMX Information LLC is to combine publicly available data from the three filed last sale products of the exchange subsidiaries of Nasdaq, Inc. and from the network processors for the ease and convenience of market data users and vendors, and ultimately the investing public. In that role, the function of NASDAQ OMX Information LLC is analogous to that of other market data vendors, and it has no competitive advantage over other market data vendors; NASDAQ OMX Information LLC performs precisely the same functions as Bloomberg, Thomson Reuters, and other market data vendors.

[4] ''Internal Distributors'' are Distributors that receive NASDAQ Last Sale Plus data and then distribute that data to one or more Subscribers within the Distributor's own entity. ''External Distributors'' are Distributors that receive NASDAQ Last Sale Plus data and then distribute that data to one or more Subscribers outside the Distributor's own entity. Internal Distributors and External Distributors are together known as ''Distributors''. Proposed BX Rule 7039(b)(1).

[5] Thus, the fee does not apply to persons that receive the NLS Plus data feed indirectly, through an Internal Distributor or External Distributor.

[6] *See* Securities Exchange Act Release Nos. 75763 (August 26, 2015), 80 FR 52817 (September 1, 2015) (SR–Phlx–2015–72) (notice of filing and immediate effectiveness regarding NLS Plus on PSX); 75890 (September 10, 2015), 80 FR 55692 (September 16, 2015) (SR–Phlx–2015–76) (notice of filing and immediate effectiveness regarding fees for NLS Plus on PSX); 75709 (August 14, 2015), 80 FR 50671 (August 20, 2015) (SR–BX–2015–047) (notice of filing and immediate effectiveness regarding NLS Plus on BX); 75830 (September 3, 2015), 80 FR

Continued

of Nasdaq, Inc.'s three U.S. equity exchanges.[7] NLS Plus includes all transactions from these exchanges, as well as FINRA/NASDAQ TRF data that is included in the current NLS product. In addition, NLS Plus features total cross-market volume information at the issue level, thereby providing redistribution of consolidated volume information (''consolidated volume'') from the securities information processors (''SIPs'') for Tape A, B, and C securities.[8] Thus, NLS Plus covers all securities listed on NASDAQ and New York Stock Exchange (''NYSE'') (now under the Intercontinental Exchange (''ICE'') umbrella), as well as US ''regional'' exchanges such as NYSE MKT, NYSE Arca, and BATS (also known as BATS/Direct Edge).[9]

NLS Plus is currently codified in PSX Chapter VIII, Last Sale (b). The fees for NLS Plus are set forth in PSX Chapter VIII, Last Sale (b)(1)–(b)(3) as follows:

(1) Firms that receive NLS Plus shall pay the annual administration fees for NLS, BX Last Sale, and PSX Last Sale, and a data consolidation fee of $350 per month.

(2) Firms that receive NLS Plus would either be liable for NLS fees or NASDAQ Basic fees.

(3) In the event that NASDAQ OMX BX and/or NASDAQ OMX PHLX adopt user fees for BX Last Sale and/or PSX Last Sale, firms that receive NLS Plus would also be liable for such fees.[10]

The Exchange now proposes to clarify how the data consolidation fee in PSX Chapter VIII, Last Sale (b) will be charged. Specifically, the Exchange proposes to clarify that firms that are Distributors that receive a NASDAQ Last Sale Plus direct data feed and are Distributors shall pay a data consolidation fee of $350 per month. Thus, only Distributors that receive NLS Plus would be charged the data consolidation fee. As proposed to be amended, PSX Chapter VIII, Last Sale (b)(1) would state:

(1) Firms that receive NLS Plus shall pay the annual administrative fees for NLS, BX Last Sale, and PSX Last Sale. Additionally, Internal Distributors or External Distributors shall pay a data consolidation fee of $350 per month.[11] ''Internal Distributors'' are Distributors that receive NLS Plus data and then distribute that data to one or more Subscribers within the Distributor's own entity. ''External Distributors'' are Distributors that receive NLS Plus data and then distribute that data to one or more Subscribers outside the Distributor's own entity.[12]

The NLS Plus fee structure as amended continues to be designed to ensure that vendors could compete with the Exchange by creating a product similar to NLS Plus.[13] The proposed fee structure reflects the cost of the data feeds underlying NLS Plus (including user fees and annual administrative fees), as well as the incremental cost of the aggregation and consolidation function (the ''consolidation function'') for NLS Plus. Accordingly, the Exchange believes that the fee structure would not result in charges for NLS Plus that are lower than the cost to a vendor creating a competing product, including the cost of receiving the underlying data feeds and consolidating them. The data consolidation fee recognizes that NLS Plus is created from data derived from NASDAQ Last Sale, BX Last Sale, PSX Last Sale, and data from the SIPs to which a consolidation function is applied. Charging the consolidation fee will not impede an entity receiving the underlying direct data feeds from creating a competing product to the NLS Plus feed based on combining individual data feeds, and charging its clients a fee that it believes reflects the value of the consolidation function. The Exchange believes that the incremental cost of aggregation to an entity that wants to re-create NLS Plus will be factored into the entity's revenue opportunity and may be inconsequential where the vendor has in place systems to perform these functions as part of creating its proprietary market data products and allocating costs over numerous products and customer relationships. For these reasons, the Exchange believes that vendors could readily offer a product similar to the NLS Plus on a competitive basis at a similar cost.

The amendment to clarify that the consolidation fee applies to Distributors that receive the NLS Plus data feed directly but does not apply to persons that receive NLS Plus indirectly through a Distributor is designed to ensure that the Exchange charges the fee only to those persons that directly benefit from the consolidation function. Specifically, if a person wished to combine the products that underlie NLS Plus and distribute them to customers or internal users, it would incur its own consolidation costs. By purchasing NLS Plus for distribution, a Distributor foregoes these costs and instead opts to pay the Exchange to perform the consolidation function for it. Thus, imposing this fee upon Distributors is a logical corollary to the service being provided. By contrast, imposing the fee upon persons receiving the product through Distributors would effectively impose a duplicative charge, since such persons consume the data but are not in the business of distributing it and therefore do not forego consolidation costs when receiving the product. The Exchange further notes that the consolidation fee for BATS One, an analogous product of competing exchanges, is charged solely to external distributors of that product.[14]

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54640 (September 10, 2015) (SR–BX–2015–054) (notice of filing and immediate effectiveness regarding fees for NLS Plus on BX); 75257 (June 22, 2015), 80 FR 36862 (June 26, 2015)(SR–NASDAQ–2015–055) (order approving proposed rule change regarding NLS Plus); and 75600 (August 4, 2015), 80 FR 47968 (August 10, 2015)(SR–NASDAQ–2015–088) (notice of filing and immediate effectiveness regarding fees for NLS Plus) (the ''NLS Plus fee proposal'').

[7] The NASDAQ OMX U.S. equity markets include the Exchange,· The NASDAQ Stock Market LLC (''NASDAQ''), and NASDAQ OMX BX, Inc. (''BX'') (together known as the ''NASDAQ OMX equity markets''). BX and NASDAQ are filing companion proposals similar to this one. NASDAQ's last sale product, NASDAQ Last Sale, includes last sale information from the FINRA/NASDAQ Trade Reporting Facility (''FINRA/NASDAQ TRF''), which is jointly operated by NASDAQ and the Financial Industry Regulatory Authority (''FINRA''). *See* Securities Exchange Act Release No. 71350 (January 17, 2014), 79 FR 4218 (January 24, 2014) (SR–FINRA–2014–002). For proposed rule changes submitted with respect to NASDAQ Last Sale, BX Last Sale, and PSX Last Sale, *see, e.g.,* Securities Exchange Act Release Nos. 57965 (June 16, 2008), 73 FR 35178, (June 20, 2008) (SR–NASDAQ–2006–060) (order approving NASDAQ Last Sale data feeds pilot); 61112 (December 4, 2009), 74 FR 65569, (December 10, 2009) (SR–BX–2009–077) (notice of filing and immediate effectiveness regarding BX Last Sale data feeds); and 62876 (September 9, 2010), 75 FR 56624, (September 16, 2010) (SR–Phlx–2010–120) (notice of filing and immediate effectiveness regarding PSX Last Sale data feeds).

[8] Tape A and Tape B securities are disseminated pursuant to the Security Industry Automation Corporation's (''SIAC'') Consolidated Tape Association Plan/Consolidated Quotation System, or CTA/CQS (''CTA''). Tape C securities are disseminated pursuant to the NASDAQ Unlisted Trading Privileges (''UTP'') Plan. NLS Plus reflects real-time trading activity for Tape C securities and 15-minute delayed information for Tape A and Tape B securities.

[9] Registered U.S. exchanges are listed at *http://www.sec.gov/divisions/marketreg/mrexchanges.shtml*.

[10] Annual administrative fees are in BX Rule 7035, NASDAQ Rule 7035, and NASDAQ OMX PSX Fees Chapter VIII. These remain unchanged at: $1,000 for NASDAQ, $1,000 for BX, and $1,000 for PSX. For purposes of conformity, ''administration'' is changed to ''administrative'' in PSX Chapter VIII, Last Sale (b)(1), discussed below.

[11] The Exchange notes that those that have received NASDAQ Last Sale Plus directly from the Exchange have all, in fact, been firms. While the NASDAQ Last Sale Plus feed is available to all that subscribe and pay the requisite costs, the Exchange believes that in light of such costs it will continue to experience only firms receiving the feed directly from the Exchange.

[12] PSX Chapter VIII, Last Sale (b)(2) and (b)(3) would remain unchanged.

[13] For additional discussion regarding potential competition with NLS Plus, *see supra* note 6 and filings cited therein.

[14] *See, e.g.,* Securities Exchange Act Release No. 73918 (December 23, 2014), 79 FR 78920 (December 31, 2014) (SR–BATS–2014–055; SR–BYX–2014–

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[15] in general, and with Sections 6(b)(4) and (5) of the Act,[16] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities, and does not unfairly discriminate between customers, issuers, brokers or dealers. All recipients of the NLS Plus data offering continue to pay the underlying data feed fees and annual administrative fees for NLS, BX Last Sale, and PSX Last Sale. The Exchange is simply clarifying that the data consolidation component of the fees for NLS Plus will be charged solely to firms that receive a NASDAQ Last Sale Plus direct data feed and are Distributors.

This change is reasonable and consistent with an equitable allocation of fees because it is designed to ensure that the Exchange charges the fee only to those persons that directly benefit from the consolidation function. Specifically, if a person wished to combine the products that underlie NLS Plus and distribute them to customers or internal users, it would incur its own consolidation costs. By purchasing NLS Plus for distribution, a Distributor foregoes these costs and instead opts to pay the Exchange to perform the consolidation function for it. Thus, imposing this fee upon Distributors is a logical corollary to the service being provided. The change is also not unfairly discriminatory. Indeed, imposing the fee upon persons receiving NLS Plus indirectly through Distributors would effectively impose a duplicative charge upon them, since such persons consume the data but are not in the business of distributing it and therefore do not forego consolidation costs when receiving the product. The Exchange further notes that the consolidation fee for BATS One, an analogous product of competing exchanges, is charged solely to external distributors of that product.[17] Accordingly, the exchanges that distribute BATS One take an analogous approach, in that they do not charge a consolidation fee to indirect recipients of the product, but rather charge the fee only to a subset of its distributors.

*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 change proposed herein is designed to ensure that the consolidation fee for NLS Plus is appropriately assessed to Distributors of the product that benefit from the consolidation function performed by NASDAQ OMX Information LLC in creating the product and insures that a duplicative charge is not also assessed against indirect recipients of the product. Thus, the change will avoid the imposition of fees on certain product recipients, while not increasing fees for any recipients.

The market for data products is extremely competitive and firms may freely choose alternative venues and data vendors based on the aggregate fees assessed, the data offered, and the value provided. This rule proposal does not burden competition, which is reflected in the offerings of other exchanges that sell alternative data products[18] and in the ability of competing data feed vendors to combine underlying data feeds in direct competition with NLS Plus. NASDAQ OMX Information LLC was constructed specifically to establish a level playing field with market data vendors and to preserve fair competition between them. NASDAQ OMX Information LLC receives NLS, BX Last Sale, and PSX Last Sale from each NASDAQ-operated exchange in the same manner, at the same speed, and reflecting the same fees as for all market data vendors. Therefore, NASDAQ OMX Information LLC has no competitive advantage with respect to these last sale products and NASDAQ commits to maintaining this level playing field in the future. In other words, NASDAQ will continue to disseminate separately the underlying last sale products to avoid creating a latency differential between NASDAQ OMX Information LLC and other market data vendors, and to avoid creating a pricing advantage for NASDAQ OMX Information LLC.

NLS Plus exists in a market for proprietary last sale data products that is currently competitive and inherently contestable because there is fierce competition for the inputs necessary to the creation of proprietary data and strict pricing discipline for the proprietary products themselves. Numerous exchanges compete with each other for listings, trades, and market data itself, providing virtually limitless opportunities for entrepreneurs who wish to produce and distribute their own market data. This proprietary data is produced by each individual exchange, as well as other entities, in a vigorously competitive market. Similarly, with respect to the FINRA/NASDAQ TRF data that is a component of NLS and NLS Plus, allowing exchanges to operate TRFs has permitted them to earn revenues by providing technology and data in support of the non-exchange segment of the market. This revenue opportunity has also resulted in fierce competition between the two current TRF operators, with both TRFs charging extremely low trade reporting fees and rebating the majority of the revenues they receive from core market data to the parties reporting trades.

Transaction execution and proprietary data products are complementary in that market data is both an input and a byproduct of the execution service. In fact, market data and trade execution are a paradigmatic example of joint products with joint costs. The decision whether and on which platform to post an order will depend on the attributes of the platform where the order can be posted, including the execution fees, data quality and price, and distribution of its data products. Without trade executions, exchange data products cannot exist. Moreover, data products are valuable to many end users only insofar as they provide information that end users expect will assist them or their customers in making trading decisions.

The costs of producing market data include not only the costs of the data distribution infrastructure, but also the costs of designing, maintaining, and operating the exchange's transaction execution platform and the cost of regulating the exchange to ensure its fair operation and maintain investor confidence. The total return that a trading platform earns reflects the revenues it receives from both products and the joint costs it incurs. Moreover, the operation of the exchange is characterized by high fixed costs and low marginal costs. This cost structure is common in content and content distribution industries such as software, where developing new software typically requires a large initial investment (and continuing large investments to upgrade the software), but once the software is developed, the incremental cost of providing that software to an additional user is

030; SR–EDGA–2014–25; SR–EDGX–2014–25) (order approving market data product called BATS One Feed being offered by four affiliated exchanges).

[15] 15 U.S.C. 78f.

[16] 15 U.S.C. 78f(b)(4) and (5).

[17] *See, e.g.,* Securities Exchange Act Release No. 73918 (December 23, 2014), 79 FR 78920 (December 31, 2014) (SR–BATS–2014–055; SR–BYX–2014–030; SR–EDGA–2014–25; SR–EDGX–2014–25) (order approving market data product called BATS One Feed being offered by four affiliated exchanges).

[18] *Id.*

typically small, or even zero (*e.g.,* if the software can be downloaded over the internet after being purchased).[19] In NASDAQ's case, it is costly to build and maintain a trading platform, but the incremental cost of trading each additional share on an existing platform, or distributing an additional instance of data, is very low. Market information and executions are each produced jointly (in the sense that the activities of trading and placing orders are the source of the information that is distributed) and are each subject to significant scale economies. In such cases, marginal cost pricing is not feasible because if all sales were priced at the margin, NASDAQ would be unable to defray its platform costs of providing the joint products. Similarly, data products cannot make use of TRF trade reports without the raw material of the trade reports themselves, and therefore necessitate the costs of operating, regulating,[20] and maintaining a trade reporting system, costs that must be covered through the fees charged for use of the facility and sales of associated data.

*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

Pursuant to Section 19(b)(3)(A)(ii) of the Act,[21] the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing.

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–Phlx–2015–87 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–Phlx–2015–87. 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 Web site (*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 Web site 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–Phlx–2015–87 and should be submitted on or before December 8, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–29217 Filed 11–16–15; 8:45 am]

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[19] *See* William J. Baumol and Daniel G. Swanson, "The New Economy and Ubiquitous Competitive Price Discrimination: Identifying Defensible Criteria of Market Power," *Antitrust Law Journal,* Vol. 70, No. 3 (2003).

[20] It should be noted that the costs of operating the FINRA/NASDAQ TRF borne by NASDAQ include regulatory charges paid by NASDAQ to FINRA.

[21] 15 U.S.C. 78s(b)(3)(A)(ii).

[22] 17 CFR 200.30–3(a)(12).

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# SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–76420; File No. SR–MSRB–2015–03]**

## Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of Amendment No. 2 to Proposed Rule Change Consisting of Proposed New Rule G–42, on Duties of Non-Solicitor Municipal Advisors, and Proposed Amendments to Rule G–8, on Books and Records To Be Made by Brokers, Dealers, Municipal Securities Dealers, and Municipal Advisors

November 10, 2015.

## I. Introduction

On April 24, 2015, the Municipal Securities Rulemaking Board ("MSRB") filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change consisting of proposed new Rule G–42, on duties of non-solicitor municipal advisors, and proposed amendments to Rule G–8, on books and records to be made by brokers, dealers, municipal securities dealers, and municipal advisors. The proposed rule change was published for comment in the **Federal Register** on May 8, 2015.[3] The Commission received fifteen comment letters on the proposal.[4] On June 16, 2015, the MSRB granted an extension of time for the Commission to act on the filing until August 6, 2015. On August 6, 2015, the Commission issued an order instituting proceedings ("OIP") under Section 19(b)(2)(B) of the Act[5] to determine whether to approve or disapprove the proposed rule change.[6] On August 12, 2015, the MSRB

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Exchange Act Release No. 74860 (May 4, 2015), 80 FR 26752 ("Notice"). The comment period closed on May 29, 2015.

[4] Comment letters are available at *www.sec.gov/comments/sr-msrb-2015-03/msrb201503.shtml.*

[5] 15 U.S.C. 78s(b)(2)(B).

[6] *See* Securities Exchange Act Release No. 75628 (August 6, 2015), 80 FR 48355 (August 12, 2015). The comment period closed on September 11, 2015.

responded to the comments [7] and filed Amendment No. 1 to the proposed rule change. [8] In response to the OIP or Amendment No. 1, the Commission received 13 comment letters.[9] On October 28, 2015, the MSRB granted an extension of time for the Commission to act on the filing until January 3, 2016. On November 9, 2015, the MSRB filed Amendment No. 2 to the proposed rule change.[10] The text of Amendment No. 2 is available on the MSRB's Web site. The Commission is publishing this notice to solicit comments on Amendment No. 2 to the proposed rule change from interested persons.

## II. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Amendment

The MSRB is proposing to add paragraphs .14 and .15 of the Supplementary Material to Proposed Rule G–42. Proposed paragraph .14 would provide a narrow exception (''Exception'') to the proposed prohibition on certain principal transactions in Proposed Rule G–42(e)(ii) for transactions in specified types of fixed income securities. Proposed paragraph .15 would define those types of fixed income securities. Amendment No. 2 also makes five minor technical changes to clarify or renumber proposed rule text.[11]

Proposed Rule G–42 would establish core standards of conduct and duties of non-solicitor municipal advisors when engaging in municipal advisory activities. Proposed Rule G–42(a)(ii), consistent with the Exchange Act,[12] provides that a municipal advisor, in the conduct of all municipal advisory activities for a municipal entity client, is subject to a fiduciary duty that includes a duty of loyalty and a duty of care. Under proposed paragraph .02 of the Supplementary Material to Proposed Rule G–42, the duty of loyalty requires, among other things, a municipal advisor to act in the municipal entity client's best interest without regard to the financial or other interests of the municipal advisor. In light of this fiduciary duty, and to prevent acts, practices or courses of business inconsistent with this duty, Proposed Rule G–42(e)(ii) would prohibit a municipal advisor, and any affiliate of such municipal advisor, from engaging with its municipal entity client in a principal transaction that is the same, or directly related to the, municipal securities transaction or municipal financial product as to which the municipal advisor is providing or has provided advice to the municipal entity client (''principal transaction ban'' or ''ban'').

The comment letters in response to the OIP or Amendment No. 1 that addressed the principal transaction ban generally expressed concerns about the breadth of the ban and the lack of any exception. They noted that fiduciaries governed by other regulatory regimes, such as investment advisers under the Investment Advisers Act of 1940 (''Advisers Act''),[13] are not flatly prohibited from engaging in principal transactions with their clients if proper disclosures are made and consent is obtained. Several commenters, including GFOA, FSI, SIFMA and BDA, generally urged the inclusion of an exception in cases, at a minimum, where the advice provided is in connection with the execution of a securities transaction by the municipal advisor on behalf of the municipal entity, the principal transaction is in a fixed income security, and the municipal entity client is involved in the process for the management of the relevant conflicts of interest. GFOA expressed concerns that the ban ''could force small governments to open a more expensive fee-based arrangement with an outside advisor in order to receive this very limited type of advice on investments that are not considered to be risky.'' [14] Several other commenters, including BDA, FSI, Millar Jiles, SIFMA and Zions, commented on the importance of preserving a municipal entity's choices and access to services and products at favorable prices, preserving choices regarding financial advisors with whom they had relationships of trust, and avoiding increased costs to municipal entities.

Prior to the most recent set of comments, the MSRB consistently concluded that the principal transaction ban should be retained with the breadth as proposed. After carefully considering the additional comments, including those of GFOA, generally representative of a key class of entities that Proposed Rule G–42 is intended to protect, the MSRB has determined to incorporate the Exception into Proposed Rule G–42. The MSRB believes that the Exception will address the primary concerns expressed by commenters that, without an exception for transactions in certain fixed income securities when advice is given by the municipal advisor in connection with executing such transactions, the proposed ban would restrict the access of municipal entities to trusted financial advisors, limit their ability to obtain certain financial services and products, create undue burdens on competition, and impose unjustified costs for issuers.

Significantly, the MSRB has developed Proposed Rule G–42 as a cornerstone of a regulatory framework that recognizes and is tailored to the unique characteristics of the municipal securities market, the special responsibilities of municipal entities in their financial matters and in their relationship to their constituents, and the particular role that municipal advisors play in the municipal securities market. The design of the proposed rule, as amended by Amendment No. 2, is in recognition that municipal advisors serve a diverse array of clients, and, in particular, municipal entity clients, which range from large state issuers to small school districts, special districts and other instrumentalities, public pension plans, and collective vehicles, such as local government investment pools (''LGIPs'')

[7] *See* Letter from Michael L. Post, MSRB, to Secretary, SEC, dated August 12, 2015, available at *http://www.sec.gov/comments/sr-msrb-2015-03/msrb201503-19.pdf*.

[8] *See* Letter from Michael L. Post, MSRB, to Secretary, SEC, dated August 12, 2015, available at *http://www.sec.gov/comments/sr-msrb-2015-03/msrb201503-20.pdf*.

[9] Letters from Michael Nicholas, Chief Executive Officer, Bond Dealers of America (''BDA''), dated September 11, 2015 and November 4, 2015; John C. Melton, Sr., Executive Vice President, Coastal Securities (''Coastal Securities''), dated September 11, 2015; Jeff White, Principal, Columbia Capital Management, LLC (''Columbia Capital''), dated September 10, 2015; Joshua Cooperman, Cooperman Associates (''Cooperman''), dated September 9, 2015; David T. Bellaire, Executive Vice President & General Counsel, Financial Services Institute (''FSI''), dated September 11, 2015; Dustin McDonald, Director, Federal Liaison Center, Government Finance Officers Association (''GFOA''), dated September 14, 2015; Tamara K. Salmon, Associate General Counsel, Investment Company Institute (''ICI''), dated September 11, 2015; Lindsey K. Bell, Millar Jiles, LLP (''Millar Jiles''), dated September 11, 2015; Terri Heaton, President, National Association of Municipal Advisors (''NAMA''), dated September 11, 2015; Leslie M. Norwood, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association (''SIFMA''), dated September 11, 2015; Joy A. Howard, WM Financial Strategies (''WM Financial''), dated September 11, 2015; W. David Hemingway, Executive Vice President, Zions First National Bank (''Zions''), dated September 10, 2015.

[10] *See* Letter from Michael L. Post, MSRB, to Secretary, SEC, dated November 9, 2015, available at *http://www.sec.gov/comments/sr-msrb-2015-03/msrb201503-36.pdf*.

[11] The MSRB will address issues raised in the comment letters received in response to the OIP or Amendment No. 1 that are not addressed through this Amendment No. 2 concurrently with its response to comment letters received, if any, in response to this Amendment No. 2.

[12] *See* Section 15B(c)(1) of the Exchange Act (15 U.S.C. 78*o*–4(c)(1)).

[13] 15 U.S.C. 80b–1 *et seq.*

[14] GFOA, however, acknowledged that the ban would be appropriate in the context of a traditional financial advisor.

and college savings plans that comply with Section 529 of the Internal Revenue Code.[15] The design of the proposed rule is also in recognition that municipal entity clients may have special needs of access to a range of services and particular types financial products from municipal advisors and affiliated financial intermediaries. At the same time, the MSRB believes that the proposed rule change, as amended, will further the protection of municipal entities, investors and the public interest.

*Description.* The Exception, to be incorporated as new proposed paragraph .14 of the Supplementary Material to Proposed Rule G–42, would provide a municipal advisor two options by which it might engage in certain principal transactions with a municipal entity client, provided the municipal advisor also complies with the first three requirements set forth in paragraph .14 (organized as sections (a) through (c)). A municipal advisor would have the option to act, on a transaction-by-transaction basis, in accordance with a short set of procedural requirements, some of which are drawn from and similar to the requirements set forth in Advisers Act Section 206(3).[16] Alternatively, a municipal advisor that wishes to satisfy procedural requirements on other than a transaction-by-transaction basis would be subject to more and different procedural requirements, including obtaining from the municipal entity client a prospective blanket, written consent. These procedural requirements are drawn from and similar to those set forth in Advisers Act Rule 206(3)–3T.[17]

Importantly, the Exception would operate only to take certain conduct out of the specified prohibition on certain principal transactions in proposed Rule G–42(e)(ii). It would not provide a safe harbor from complying with any other applicable law or rules. Thus, a municipal advisor engaging in a principal transaction in compliance with the Exception would need to continue to be mindful of, and comply with, its broader and foundational obligations owed to the client as a fiduciary under the Exchange Act and Proposed Rule G–42, as well as all other applicable provisions of the federal securities laws and state law.[18]

All of the requirements for the Exception take the form of various conditions and limitations. As provided in proposed section (a) of paragraph .14 of the Supplementary Material, a principal transaction could be excepted from the specified prohibition only if the municipal advisor also is a broker-dealer registered under Section 15 of the Exchange Act,[19] and each account for which the municipal advisor would be relying on the Exception is a brokerage account subject to the Exchange Act,[20] the rules thereunder, and the rules of the self-regulatory organization(s) of which the broker-dealer is a member. In addition, the municipal advisor could not exercise investment discretion (as defined in Section 3(a)(35) of the Exchange Act) [21] with respect to the account, unless granted by the municipal entity client on a temporary or limited basis.[22]

Under proposed section (b) of paragraph .14 of the Supplementary Material, neither the municipal advisor nor any affiliate of the municipal advisor may be providing, or have provided, advice to the municipal entity client as to an issue of municipal securities or a municipal financial product that is directly related to the principal transaction, except advice as to another principal transaction that also meets all the other requirements of proposed paragraph .14. For example, a municipal advisor could not use the Exception to reinvest proceeds from an issue of municipal securities where it was a municipal advisor as to such issue. A municipal advisor could use the Exception, however, for two principal transactions with the same municipal entity client where the transactions are directly related to one another, so long as all of the conditions and limitations of the Exception are met as to each transaction.

Proposed section (c) of paragraph .14 of the Supplementary Material would limit a municipal advisor's principal transactions under the Exception to sales to or purchases from a municipal entity client of any U.S. Treasury security, agency debt security or corporate debt security. In addition, the proposed Exception would not be available for transactions involving municipal escrow investments as defined in Exchange Act Rule 15Ba1–1(h) [23] because the MSRB believes that this is an area of heightened risk where, historically, significant abuses have occurred. The inclusion in the Exception of transactions in this class of fixed income securities is intended to address the concerns of commenters that an absolute ban on principal transactions in fixed income securities, which are frequently sold by broker-dealers as principal or riskless principal, would be particularly problematic, and also addresses comments that an exception limited to these generally relatively liquid securities trading in relatively transparent markets would raise significantly less risk for municipal entity clients.[24] The proposed class of securities may be broader than what would be permitted by relevant bond documents or a particular municipal entity's investment policies, but, in such cases, the restrictions in the bond documents or the municipal entity's investment policies would appropriately control. The terms ''U.S. Treasury security,'' ''agency debt security'' and ''corporate debt security,'' and related terms, ''agency,'' ''government-sponsored enterprise,'' ''money market instrument'' and ''securitized product'' would be defined for purposes of proposed paragraphs .14 and .15 of the Supplementary Material in new proposed paragraph .15 of the Supplementary Material.

To comply with proposed section (d) of paragraph .14 of the Supplementary Material, a municipal advisor would have two options. These two options draw, as generally urged by commenters, upon the procedural requirements in Advisers Act Section 206(3) [25] and Advisers Act Rule 206(3)–3T(a),[26] respectively. Under the first option, which is set forth in proposed subsection (d)(1) of paragraph .14, a municipal advisor would be required, on a transaction-by-transaction basis, to disclose to the municipal entity client in writing before the completion of the principal transaction the capacity in which the municipal advisor is acting and obtain the consent of the client to such transaction. Consent would mean informed consent, and in order to make

[15] *See* 26 U.S.C. 529.

[16] 15 U.S.C. 80b–6(3).

[17] 17 CFR 275.206(3)–3T.

[18] The MSRB's approach in this regard is consistent with that of the Commission with respect to principal transactions executed by investment advisers under Advisers Act Section 206(3) (15 U.S.C. 80b–6(3)) or Advisers Act Rule 206(3)–3T (17 CFR 275.206(3)–3T).

[19] 15 U.S.C. 78*o*.

[20] 15 U.S.C. 78a *et seq.*

[21] 15 U.S.C. 78(c)(a)(35).

[22] The proposed requirements are similar to those found in Advisers Act Rule 206(3)–T(a)(7) and (1), respectively. 17 CFR 275.206(3)–3T(a)(7) and (1).

[23] 17 CFR 240.15Ba1–1(h).

[24] For example, SIFMA noted the need for an exception to the ban was particularly acute with respect to transactions between a municipal advisor/broker-dealer and its municipal entity client in fixed income securities since ''nearly all transactions in fixed-income securities are effected on a principal basis.'' GFOA noted that municipal entities might be subject to additional costs regarding advice on ''investments that are not considered to be risky,'' and FSI specifically suggested that an exception to the ban for broker-dealers providing advice incidental to securities execution services be limited to transactions in a similar group of fixed income securities.

[25] 15 U.S.C. 80b–6(3).

[26] *See* 17 CFR 275.206(3)–3T(a).

informed consent, the municipal advisor, consistent with its fiduciary duty, would be required to disclose specified information, including the price and other terms of the transaction, as well as the capacity in which the municipal advisor would be acting. ''Before completion'' would mean either prior to execution of the transaction, or after execution but prior to the settlement of the transaction.[27]

Alternatively, a municipal advisor could comply with proposed subsection (d)(2) of paragraph .14 by meeting six requirements, as set forth in proposed paragraphs (d)(2)(A) through (F) of paragraph .14 and summarized below. First, under proposed paragraph (d)(2)(A), neither the municipal advisor nor any of its affiliates could be the issuer, or the underwriter (as defined in Exchange Act Rule 15c2–12(f)(8)),[28] of a security that is the subject of the principal transaction.

Second, under proposed paragraph (d)(2)(B), the municipal advisor would be required to obtain from the municipal entity client an executed written, revocable consent that would prospectively authorize the municipal advisor directly or indirectly to act as principal for its own account in selling a security to or purchasing a security from the municipal entity client, so long as such written consent were obtained after written disclosure to the municipal entity client explaining: (i) The circumstances under which the municipal advisor directly or indirectly may engage in principal transactions; (ii) the nature and significance of conflicts with the municipal entity client's interests as a result of the transactions; and (iii) how the municipal advisor addresses those conflicts.

Third, under proposed paragraph (d)(2)(C), the municipal advisor, prior to the execution of each principal transaction, would be required to: (i) Inform the municipal entity client, orally or in writing, of the capacity in which it may act with respect to such transaction and (ii) obtain consent from the municipal entity client, orally or in writing, to act as principal for its own account with respect to such transaction.

Fourth, under proposed paragraph (d)(2)(D), a municipal advisor would be required to send a written confirmation at or before completion of each principal transaction that includes the information required by 17 CFR 240.10b–10 or MSRB Rule G–15, and a conspicuous, plain English statement informing the municipal entity client that the municipal advisor: (i) Disclosed to the client prior to the execution of the transaction that the municipal advisor may be acting in a principal capacity in connection with the transaction and the client authorized the transaction and (ii) sold the security to, or bought the security from, the client for its own account.

Fifth, under proposed paragraph (d)(2)(E), a municipal advisor would be required to send its municipal entity client, no less frequently than annually, written disclosure containing a list of all transactions that were executed in the client's account in reliance upon this Exception, and the date and price of the transactions.

Sixth, under proposed paragraph (d)(2)(F), each written disclosure would be required to include a conspicuous, plain English statement regarding the ability of the municipal entity client to revoke the prospective written consent to principal transactions without penalty at any time by written notice.

A municipal advisor's use and compliance with the requirements of the Exception would not be construed as relieving it in any way from acting in the best interests of its municipal entity client nor from any obligation that may be imposed by the Exchange Act, other provisions of Proposed Rule G–42 (other than subsection (e)(ii) of the proposed rule), or other applicable provisions of the federal securities laws and state law.

*Other Amendments*

In Amendment No. 2, the MSRB makes five minor, technical amendments, which would clarify, correct cross-references in, or renumber certain provisions of Proposed Rule G–42. First, the MSRB is making minor, technical changes to Proposed Rule G–42(d) regarding recommendations. These amendments set forth the initial text that precedes proposed subsection (d)(i) in two sentences rather than one. The purpose of this change is to clarify the requirements that would apply when a municipal advisor makes a recommendation of a municipal securities transaction or municipal financial product and when a municipal advisor reviews such a recommendation of another party. These amendments also clarify in the initial text that precedes proposed subsection (d)(i), consistent with Proposed Rule G–42(d)(ii), that a municipal advisor reviewing a recommendation of another party could determine that the recommended municipal securities transaction or municipal financial product is not suitable for the client.

Second, Amendment No. 2 revises proposed Rule G–42(e)(ii) to begin with the new clause, ''Except as provided in paragraph .14 of the Supplementary Material of this rule,'' and then continue as previously proposed, except that the phrase ''municipal securities transaction'' is changed to ''issue of municipal securities'' in order to more closely track the relevant statutory language.[29] Third, to alphabetize the definitions set forth in proposed section (f), the proposed definition of the term ''Principal transaction'' is renumbered from subsection (f)(i) to subsection (f)(ix). The other eight definitions, set forth as subsections (f)(ii) through (f)(ix), are renumbered, accordingly, as subsections (f)(i) through (f)(viii). Fourth, in proposed paragraphs of the Supplementary Material, references to ''this paragraph'' are amended to include the appropriate paragraph number (*e.g.,* in proposed paragraph .01 of the Supplementary Material, ''this paragraph'' is amended to read ''this paragraph .01''). Fifth, the order of proposed paragraphs .12 and .13 of the Supplementary Material is reversed, which organizes the two paragraphs addressing principal transactions to appear consecutively and improves the readability of the rule. In addition, in proposed paragraph .13 (as renumbered), the cross-reference to the definition of the term ''principal transaction'' is corrected.

The MSRB proposes to make the proposed rule change effective six months after Commission approval of all changes.

## III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments regarding the foregoing, including whether the filing as amended by Amendment No. 2 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

[27] These parameters are substantially similar to long-standing interpretive guidance regarding Advisers Act Section 206(3). *See* SEC Interpretation of Section 206(3) of the Investment Advisers Act of 1940, Rel. No. IA–1732 (July 17, 1998) (''The protection provided to advisory clients by the consent requirement of Section 206(3) would be weakened, however, without sufficient disclosure of the potential conflicts of interest and the terms of a transaction. In our view, to ensure that a client's consent to a Section 206(3) transaction is informed, Section 206(3) should be read together with Sections 206(1) and 206(2) to require the adviser to disclose facts necessary to alert the client to the adviser's potential conflicts of interest in a principal . . . transaction.'').

[28] 17 CFR 240.15c2–12(f)(8).

[29] *See, e.g.,* 15 U.S.C. 78*o*–4(b)(2).

• Send an email to *rule-comments@sec.gov.* Please include File Number SR–MSRB–2015–03 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–MSRB–2015–03. 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 Web site (*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 Web site 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 MSRB. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MSRB–2015–03 and should be submitted on or before December 1, 2015.[30]

For the Commission, pursuant to delegated authority.[31]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–29226 Filed 11–16–15; 8:45 am]

**BILLING CODE 8011–01–P**

[30] The Commission believes that a 14-day comment period is reasonable, given the urgency of the matter. It will provide adequate time for comment.

[31] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–76423; File No. SR–EDGX–2015–55]**

## Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees

November 10, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 2, 2015, EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') 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 Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act [3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. 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 filed a proposal to amend the fee schedule applicable to Members [5] and non-members of the Exchange pursuant to EDGX Rules 15.1(a) and (c) (''Fee Schedule'').

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.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 parts of such statements.

*(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to increase the fee for orders yielding fee code D, which results from an order routed to the New York Stock Exchange (''NYSE'') or routed using the RDOT routing strategy. In securities priced at or above $1.00, the Exchange currently assesses a fee of $0.0027 per share for Members' orders that yield fee code D. The Exchange proposes to amend its Fee Schedule to increase this fee to $0.00275 per share. The proposed change would enable the Exchange to pass through the rate that BATS Trading, Inc. (''BATS Trading''), the Exchange's affiliated routing broker-dealer, is charged for routing orders to NYSE when it does not qualify for a volume tiered reduced fee. The proposed change is in response to NYSE's November 2015 fee change where NYSE increased the fee to remove liquidity via routable order types it charges its customers, from a fee of $0.0027 per share to a fee of $0.00275 per share.[6] When BATS Trading routes to NYSE, it will now be charged a standard rate of $0.00275 per share. BATS Trading will pass through this rate to the Exchange and the Exchange, in turn, will pass through of a rate of $0.00275 per share to its Members. The proposed increase to the fee under fee code D would enable the Exchange to equitably allocate its costs among all Members utilizing fee code D. The Exchange proposes to implement this amendment to its Fee Schedule immediately.

In addition to the change proposed above, the Exchange proposes to change certain references on the Fee Schedule in connection with the launch of the options exchange operated by the Exchange. First, the Exchange propose [sic] to modify references in the Unicast Access section under BATS Connect fees to refer to ''BZX Options'' instead of ''BATS Options''. Second, the Exchange proposes to add reference to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The term ''Member'' is defined as ''any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange [sic]. A Member will have the status of a ''member'' of the Exchange as that term is defined in Section 3(a)(3) of the Act.'' *See* Exchange Rule 1.5(n).

[6] *See* NYSE Trader Update, Fee Changes Effective November 2, dated October 30, 2015, *available at https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Client_Notice_Fee_Change_11_2015.pdf.*

EDGX Options in the list of Exchange affiliates to which such fees do not apply.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[7] in general, and furthers the objectives of Section 6(b)(4),[8] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange believes that its proposal to increase the fee for Members' orders that yield fee code D from $0.0027 per share to $0.00275 per share represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities because the Exchange does not levy additional fees or offer additional rebates for orders that it routes to NYSE through BATS Trading. As of November 1, 2015 [sic], NYSE amended its fee to remove liquidity via routable order types it charges its customers, from a fee of $0.0027 per share to a fee of $0.00275 per share.[9] Therefore, the Exchange believes that its proposal to pass through a fee of $0.00275 per share for orders that yield fee code D is equitable and reasonable because it accounts for the pricing changes on NYSE. In addition, the proposal allows the Exchange to continue to charge its Members a pass-through rate for orders that are routed to NYSE. Furthermore, the Exchange notes that routing through BATS Trading is voluntary. Lastly, the Exchange also believes that the proposed amendment is non-discriminatory because it applies uniformly to all Members. The Exchange also believes that the changes to add EDGX Options to the list of affiliates under Unicast Access and the re-naming of BATS Options as BZX Options is consistent with the Act. Such changes reflect and are in connection with the launch of EDGX Options but do not result in any material change to the Exchange's Fee Schedule or impose any new or different fee.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

These proposed rule changes do not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that any of these changes represent a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Additionally, Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets. The Exchange believes that its proposal to pass through a fee of $0.00275 per share for Members' orders that yield fee code D would increase intermarket competition because it offers customers an alternative means to route to NYSE. The Exchange believes that its proposal would not burden intramarket competition because the proposed rate would apply uniformly to all Members.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and paragraph (f) of Rule 19b–4 thereunder.[11] 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–EDGX–2015–55 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–EDGX–2015–55. 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 Web site (*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 Web site 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 will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGX–2015–55 and should be submitted on or before December 8,2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–29229 Filed 11–16–15; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(4).

[9] *See supra* note 6.

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f).

[12] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–76415; File No. SR–ISE–2015–36]**

## Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of Proposed Rule Change Relating to a Corporate Transaction Involving Its Indirect Parent

November 10, 2015.

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 October 30, 2015, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change, as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to remove Eurex Frankfurt AG (''Eurex Frankfurt'') as an indirect, non-U.S. upstream owner of the Exchange (the ''Transaction''). In order to consummate the Transaction, the Exchange proposes to: (i) Amend and restate the Third Amended and Restated Trust Agreement (the ''Trust Agreement'') that exists among International Securities Exchange Holdings, Inc. (''ISE Holdings''), U.S. Exchange Holdings, Inc. (''U.S. Exchange Holdings''), and the Trustees (as defined therein) in order to remove references to Eurex Frankfurt; and (ii) amend and restate the Third Amended and Restated Certificate of Incorporation of U.S. Exchange Holdings (''U.S. Exchange Holdings COI'') to update a reference therein to the Trust Agreement.

The text of the proposed rule change is available at the Commission's Public Reference Room and on the Exchange's Internet Web site at *http://www.ise.com.*

### II. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of the proposal is to remove Eurex Frankfurt as an indirect, non-U.S. upstream owner of the Exchange.[3]

Background

On December 17, 2007, ISE Holdings, the sole, direct parent of the Exchange, became a direct, wholly-owned subsidiary of U.S. Exchange Holdings.[4] U.S. Exchange Holdings is 85% directly owned by Eurex Frankfurt and 15% directly owned by Deutsche Börse AG (''Deutsche Börse''). Eurex Frankfurt is a wholly-owned, direct subsidiary of Deutsche Börse.[5] Deutsche Börse therefore owns 100% of U.S. Exchange Holdings through its aggregate direct and indirect ownership.

The Transaction

The Transaction is designed to simplify the indirect ownership structure of the Exchange.[6] The Transaction will not have any effect on ISE Holdings' direct ownership of the Exchange or the operations of the Exchange. Consummation of the Transaction is subject to approval of this proposed rule change by the Commission.[7] In order to effectuate the Transaction, on or about December 31, 2015, Eurex Frankfurt will transfer its 85% ownership in U.S. Exchange Holdings to Deutsche Börse.[8] As a result of the Transaction, Eurex Frankfurt will cease to be a Non-U.S. Upstream Owner of the Exchange, as Deutsche Börse will be the sole, direct owner of U.S. Exchange Holdings.[9] U.S. Exchange Holdings will remain the sole, direct owner of ISE Holdings. ISE Holdings will also remain the sole, direct owner of the Exchange. The Transaction will not result in any additional person or entity acquiring direct or indirect ownership in the Exchange.

In order to consummate the Transaction in the manner described above, certain administrative amendments will need to be made to the Trust Agreement and the U.S. Exchange Holdings COI. The proposed amendments to such documents are described below.

Trust Agreement [10]

The Trust Agreement serves four general purposes: (i) To accept, hold and dispose of Trust Shares [11] on the terms and subject to the conditions set forth therein; (ii) to determine whether a Material Compliance Event [12] has

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange's affiliate, ISE Gemini, LLC (''ISE Gemini''), has submitted a nearly identical proposed rule change. *See* SR–ISEGemini–2015–24.

[4] *See* Securities Exchange Act Release No. 56955 (December 13, 2007), 72 FR 71979 (December 19, 2007) (SR–ISE–2007–101).

[5] *See* Securities Exchange Act Release No. 66834 (April 19, 2012), 77 FR 24752 (April 25, 2012) (SR–ISE–2012–21). Each of Deutsche Börse and Eurex Frankfurt is referred to as a ''Non-U.S. Upstream Owner'' and collectively as the ''Non-U.S. Upstream Owners.'' Each of the Non-U.S. Upstream Owners has previously taken appropriate steps to incorporate provisions regarding ownership, jurisdiction, books and records, and other issues related to their control of the Exchange. Specifically, each of the Non-U.S. Upstream Owners has adopted resolutions, which were previously approved by the Commission, to incorporate these concepts with respect to itself, as well as its board members, officers, employees, and agents (as applicable), to the extent that they are involved in the activities of the Exchange. *See also* SR–ISE–2007–101, *supra* note 4.

[6] In 2014 the Exchange submitted a proposed rule change with the Commission to similarly simplify the indirect ownership structure of the Exchange. *See* Securities Exchange Act Release No. 73860 (December 17, 2014), 79 FR 77066 (December 23, 2014) (SR–ISE–2014–44).

[7] *See infra* notes 15 and 16.

[8] As referenced above, Deutsche Börse is already the 100% indirect owner of Eurex Frankfurt. In addition, Deutsche Börse also is already an approved Non-U.S. Upstream Owner of the Exchange. *See supra* note 5.

[9] In connection with each of their ownership interests in the Exchange, Deutsche Börse, Eurex Frankfurt, U.S. Exchange Holdings, ISE Holdings and the Exchange became parties to an agreement to provide for adequate funding for the Exchange's regulatory responsibilities. ISE Gemini subsequently became a party to the agreement. Following the completion of the Transaction, Eurex Frankfurt will cease to be a Non-U.S. Upstream Owner of the Exchange, and as such, will no longer be a party to such agreement.

[10] The Trust Agreement exists among ISE Holdings, U.S. Exchange Holdings, and the Trustees (as defined therein).

[11] Under the Trust Agreement, the term ''Trust Shares'' means either Excess Shares or Deposited Shares, or both, as the case may be. The term ''Excess Shares'' means that a Person obtained an ownership or voting interest in ISE Holdings in excess of certain ownership and voting restrictions pursuant to Article FOURTH of the ISE Holdings COI, through, for example, ownership of one of the Non-U.S. Upstream Owners or U.S. Exchange Holdings, without obtaining the approval of the Commission. The term ''Deposited Shares'' means shares that are transferred to the Trust pursuant to the Trust's exercise of the Call Option.

[12] Under the Trust Agreement, the term ''Material Compliance Event'' means, with respect to a Non-U.S. Upstream Owner, any state of facts, development, event, circumstance, condition, occurrence or effect that results in the failure of any of the Non-U.S. Upstream Owners to adhere to their respective commitments under the resolutions (*i.e.,* as referenced in note 5) in any material respect.

occurred or is continuing; (iii) to determine whether the occurrence and continuation of a Material Compliance Event requires the exercise of the Call Option; [13] and (iv) to transfer Deposited Shares from the Trust to the Trust Beneficiary [14] as provided in Section 4.2(h) therein.

The Exchange proposes to amend certain provisions of the Trust Agreement in connection with the Transaction. Specifically, the Exchange proposes to: (i) Update the recitals of the Trust Agreement with respect to the Transaction; and (ii) remove references to Eurex Frankfurt from the definition of ''Affected Affiliate'' in Section 1.1 of the Trust Agreement.[15] The proposed amendments to the Trust Agreement are strictly administrative changes to reflect the updated corporate structure resulting from the Transaction and will not affect the mechanisms established by the Trust Agreement for the benefit of the Trust Beneficiary.

U.S. Exchange Holdings COI

The Exchange proposes to make a non-substantive, administrative change to the U.S. Exchange Holdings COI to update a reference therein to the Trust Agreement. Article THIRTEENTH of the U.S. Exchange Holdings COI contains references to (i) the ''Third Amended and Restated'' Trust Agreement, which, as discussed herein, will become the ''Fourth Amended and Restated'' Trust Agreement; and (ii) the effective date of the Trust Agreement, which, as discussed herein, will change to a date in December 2015 that corresponds to the effective closing date of the Transaction. The Exchange proposes to update these references. The Exchange also proposes to retitle the document as the ''Fourth'' Amended and Restated Certificate of Incorporation of U.S. Exchange Holdings and update the effective date thereof.[16]

Certain Resolutions

As described above, each of the Non-U.S. Upstream Owners, including Eurex Frankfurt, has previously taken appropriate steps to incorporate provisions regarding ownership, jurisdiction, books and records, and other issues related to their control of the Exchange. Specifically, each of such Non-U.S. Upstream Owners has adopted resolutions, which were previously approved by the Commission, to incorporate these concepts with respect to itself, as well as its board members, officers, employees, and agents (as applicable), to the extent that they are involved in the activities of the Exchange.[17] For example, the resolution of each of such Non-U.S. Upstream Owners provides that it shall comply with the U.S. federal securities laws and the rules and regulations thereunder and shall cooperate with the Commission and with the Exchange. In addition, the resolution of each of such Non-U.S. Upstream Owners provides that the board members, including each person who becomes a board member, would so consent to comply and cooperate and the particular Non-U.S. Upstream Owner would take reasonable steps to cause its officers, employees, and agents to also comply and cooperate, to the extent that he or she is involved in the activities of the Exchange.

As Eurex Frankfurt will cease to be a Non-U.S. Upstream Owner of the Exchange after the Transaction, the Exchange proposes that the resolutions of Eurex Frankfurt, as referenced above, will cease to be rules of the Exchange as of a date in December 2015 that corresponds to the effective closing date of the Transaction.[18]

Summary

Upon the consummation of the Transaction the Exchange will continue to operate and regulate its market and members in the same exact manner as it did prior to the Transactions. The Transaction will not impair the ability of ISE Holdings, the Exchange, or any facility thereof, to carry out their respective functions and responsibilities under the Act. Moreover, the Transaction will not impair the ability of the Commission to enforce the Act with respect to the Exchange and its Non-U.S. Upstream Owners (which will solely be Deutsche Börse after the Transaction), including each of their directors, officers, employees and agents, to the extent they are involved in the activities of the Exchange. As such, the Commission's plenary regulatory authority over the Exchange will not be affected by the approval of this proposed rule change.

2. Statutory Basis

The Exchange believes that this proposal is consistent with Section 6(b)of the Act,[19] in general, and furthers the objectives of Section 6(b)(1) of the Act,[20] in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. The Exchange will operate in the same manner following the Transaction as it operates today. Thus, the Commission will continue to have plenary regulatory authority over the Exchange, as is the case currently with the Exchange. The proposed rule change is consistent with and will facilitate an ownership structure that will continue to provide the Commission with appropriate oversight tools to ensure that the Commission will have the ability to enforce the Act with respect to the Exchange and its Non-U.S. Upstream Owners, including their directors, officers, employees and agents, to the extent they are involved in the activities of the Exchange.

The Exchange also believes that this filing furthers the objectives of Section 6(b)(5) [21] of the Act because the proposed rule change would be consistent with and facilitate a governance and regulatory structure that

[13] Under the Trust Agreement, the term ''Call Option'' means the option granted by the Trust Beneficiary to the Trust to call the Voting Shares as set forth in Section 4.2 therein.

[14] Under the Trust Agreement, the term ''Trust Beneficiary'' means U.S. Exchange Holdings.

[15] The proposed, amended Trust Agreement is attached hereto as Exhibit 5A. Section 8.2 of the Trust Agreement provides, in part, that, for so long as ISE Holdings controls, directly or indirectly, the Exchange, before any amendment or repeal of any provision of the Trust Agreement shall be effective, such amendment or repeal shall be submitted to the board of directors of the Exchange, as applicable, and if such amendment or repeal must be filed with or filed with and approved by the Commission under Section 19 of the Securities Exchange Act of 1934 (the ''Act'') and the rules promulgated thereunder before such amendment or repeal may be effectuated, then such amendment or repeal shall not be effectuated until filed with or filed with and approved by the Commission, as the case may be. The Exchange also proposes to retitle the Trust Agreement as the ''Fourth'' Amended and Restated Trust Agreement and update the date thereof.

[16] The proposed, amended U.S. Exchange Holdings COI is attached hereto as Exhibit 5B. Article SIXTEENTH of the U.S. Exchange Holdings COI provides that, for so long as U.S. Exchange Holdings shall control, directly or indirectly, the Exchange, or facility thereof, before any amendment to or repeal of any provision of the U.S. Exchange Holdings COI shall be effective, the same shall be submitted to the board of directors of the Exchange, and if the same must be filed with, or filed with and approved by, the Commission before the same may be effective, under Section 19 of the Act and the rules promulgated thereunder, then the same shall not be effective until filed with, or filed with and approved by, the Commission, as the case may be.

[17] *See supra* notes 4 and 5. *See* also SR–ISE–2007–101, *supra* note 4; SR–ISE–2012–21, *supra* note 5.

[18] As referenced above, resolutions in relation to board members, officers, employees, and agents (as applicable) of Eurex Frankfurt also would cease accordingly. This proposed change would have no impact on the resolutions of Deutsche Börse or its board members, officers, employees, and agents (as applicable).

[19] 15 U.S.C. 78s(b).

[20] 15 U.S.C. 78s(b)(1).

[21] 15 U.S.C. 78f(b)(5).

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 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. Specifically, the Exchange believes that the proposed rule change will continue to provide the Commission and the Exchange with access to necessary information that will allow the Exchange to efficiently and effectively enforce compliance with the Act, as well as allow the Commission to provide proper oversight, which will ultimately promote just and equitable principles of trade and protect investors. In addition, the Exchange believes that the proposed rule change will continue to preserve the independence of the Exchange's self-regulatory function and ensure that the Exchange will be able to obtain any information it needs in order to detect and deter any fraudulent and manipulative acts in its marketplace and carry out its regulatory responsibilities under the Act.

Approval of this proposed rule change will enable ISE Holdings to continue its operations and the Exchange to continue its orderly discharge of regulatory duties 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.

Finally, the Exchange is not proposing any significant or novel regulatory issues, nor is it proposing any changes to the Exchange's operational or trading structure in connection with the Transaction. Instead, the Exchange represents that the proposed rule change consists of administrative amendments to the Trust Agreement and the U.S. Exchange Holdings COI and addresses certain resolutions in relation to Eurex Frankfurt, which currently is a Non-U.S. Upstream Owner of the Exchange, but whose status as such will cease as a result of the Transaction, such that the resolutions will cease to be rules of the Exchange as they relate to Eurex Frankfurt, and that no changes will be made to other aspects of the Exchange's organizational documents that were previously approved by the Commission.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,[22] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change implicates any competitive issues. Rather, the Transaction merely represents a restructuring of indirect ownership interests of the Exchange, and will not involve the introduction of any new direct or indirect owners or any entity or individual that would have the right to direct the actions of the Exchange or vote the shares of the Exchange. As such, the Exchange believes that the proposal is consistent with the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

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–ISE–2015–36 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–ISE–2015–36. 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 Web site (*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 Web site viewing and printing in the Commission's Public Reference Room on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2015–36, and should be submitted on or before December 8, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–29214 Filed 11–16–15; 8:45 am]

**BILLING CODE 8011–01–P**

[22] 15 U.S.C. 78f(b)(8).

[23] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–76413; File No. SR–NYSEMKT–2015–92]**

## Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Making Certain Representations Relating to the NYSE Best Quote & Trades Data Feed

November 10, 2015.

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 October 29, 2015, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to make certain representations relating to the NYSE Best Quote & Trades (NYSE BQT) data feed. The text of the proposed rule change is available on the Exchange's Web site 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 Statutory Basis for, the Proposed Rule Change*

1. Purpose

The NYSE Best Quotes and Trades (''NYSE BQT'') data feed, a market data product offered by the New York Stock Exchange LLC (''NYSE''), provides best bid and offer (''BBO'') and last sale information for the Exchange and its affiliates, NYSE and NYSE Arca, Inc. (''NYSE Arca'').[4] Specifically, the NYSE BQT data feed consists of certain data elements from six market data feeds—NYSE Trades, NYSE BBO, NYSE Arca Trades, NYSE Arca BBO, NYSE MKT Trades, and NYSE MKT BBO.[5]

While NYSE MKT, NYSE and NYSE Arca are the exclusive distributors of their BBO and Trades feeds from which the data elements are taken to create the NYSE BQT data feed, the NYSE represented that it would not have any unfair advantage over competing vendors with respect to obtaining data from NYSE, NYSE Arca and NYSE MKT.[6] The NYSE represented that it would not be the exclusive distributor of the aggregated and consolidated information that comprises the NYSE BQT data feed and that it designed the NYSE BQT data feed so that it would not have a competitive advantage over a competing vendor with respect to the speed of access to those six underlying data feeds. In recognition that NYSE MKT is the source of its own market data, NYSE MKT represents that it will continue to make available the individual underlying feeds, NYSE MKT Trades and NYSE MKT BBO, and that the source for these feeds for use by NYSE to create the NYSE BQT data feed is the same as the source available to other vendors.[7]

The Exchange notes that the proposed change is not otherwise intended to address any other issues, and the Exchange is not aware of any problems that member organizations or others would have in complying with the proposed rule change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) [8] of the Act, in general, and furthers the objectives of Section 6(b)(5) [9] of the Act, 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 mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, and it is not designed to permit unfair discrimination among customers, brokers, or dealers. This proposal is in keeping with those principles in that it promotes increased transparency through the dissemination of the NYSE BQT data feed to those interested in receiving it.

NYSE MKT is the source of its own market data, including the NYSE MKT market data that the NYSE includes in the NYSE BQT data feed. NYSE MKT represents that it will continue to make available the individual underlying NYSE MKT market data products, NYSE MKT Trades and NYSE MKT BBO, that are included in NYSE BQT, and that the source of the NYSE MKT market data the NYSE uses to create the NYSE BQT data feed is the same as the source available to other vendors. Thus, a vendor creating a product to compete with NYSE BQT could also obtain the six underlying data feeds in NYSE BQT and perform a similar aggregation and consolidation function to create the same data product with the same latency.

The NYSE BQT data feed helps to protect a free and open market by providing vendors and subscribers with additional choices in receiving this type of market data, thus promoting competition and innovation.

[4] *See* Securities Exchange Act Release No. 34–73553 (Nov. 6, 2014), 79 FR 67491 (Nov. 13, 2014) (SR–NYSE–2014–40) (''NYSE BQT Approval Order'').

[5] These data feeds are offered pursuant to preexisting and effective rules and fees filed with the Securities and Exchange Commission (''Commission''). This filing does not affect those rules or the fees associated with these underlying data feeds or the ability for the NYSE MKT, the NYSE or NYSE Arca to amend the data feeds or fees associated with those data feeds pursuant to separate rule filings For NYSE MKT Trades and NYSE MKT BBO, *see* Securities Exchange Act Release No. 62187 (May 27, 2010), 75 FR 31500 (June 3, 2010) (SR–NYSEAmex-2010–35). For NYSE Trades, *see* Securities Exchange Act Release Nos. 59290 (Jan. 23, 2009), 74 FR 5707 (Jan. 30, 2009) (SR–NYSE–2009–05) and 59606 (Mar. 19, 2009), 74 FR 13293 (Mar. 26, 2009) (SR–NYSE–2009–04). For NYSE BBO, *see* Securities Exchange Act Release No. 62181 (May 26, 2010), 75 FR 31488 (June 3, 2010) (SR–NYSE–2010–30). For NYSE Arca Trades, *see* Securities Exchange Act Release Nos. 59289 (Jan. 23, 2009), 74 FR 5711 (Jan. 30, 2009) (SR–NYSEArca–2009–06) and 59598 (Mar. 18, 2009), 74 FR 12919 (Mar. 25, 2009) (SR–NYSEArca–2009–05). For NYSE Arca BBO, *see* Securities Exchange Act Release No. 62188 (May 27, 2010), 75 FR 31484 (June 3, 2010) (SR–NYSEArca–2010–23).

[6] *See supra* note 4 at 67492.

[7] NYSE Arca is filing a similar proposal regarding the NYSE BQT data feed (SR–NYSEArca–2015–103).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

*B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,[10] 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. As noted above, the NYSE BQT data feed represents aggregated and consolidated information of six existing market data feeds. Although NYSE MKT, the NYSE and NYSE Arca are the exclusive distributors of the six BBO and Trades feeds from which certain data elements are taken to create the NYSE BQT data feed, the NYSE may not be the exclusive distributor of the aggregated and consolidated information that comprises the NYSE BQT data feed. Any other market data recipient of the six BBO and Trades feeds would be able, if they chose, to create a data feed with the same information as the NYSE BQT data feed and distribute it to their clients on a level-playing field with respect to latency and cost as compared to the NYSE's product.[11]

*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[12] and Rule 19b–4(f)(6) thereunder.[13] 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.

A proposed rule change filed under Rule 19b–4(f)(6)[14] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. The Exchange notes that the NYSE BQT data feed has been the subject of prior rule filings and believes that waiver of the 30-day operative delay will provide more transparency and consistency with respect to the description of the NYSE BQT data feed. Based on the foregoing, the Commission believes that the waiver of the operative delay is appropriate and is consistent with the protection of investors and the public interest.[15] The Commission hereby grants the waiver and designates the proposal operative upon filing.

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)[16] of the Act to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic comments:*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2015–92 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–NYSEMKT–2015–92. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*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 Web site viewing and printing in the Commission's Public Reference Section, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2015–92 and should be submitted on or before December 8, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–29212 Filed 11–16–15; 8:45 am]

BILLING CODE 8011–01–P

[10] 78 U.S.C. 78f(b)(8).

[11] *See* NYSE BQT Approval Order, *supra* note 4.

[12] 15 U.S.C. 78s(b)(3)(A)(iii).

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6).

[15] 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).

[16] 15 U.S.C. 78s(b)(2)(B).

[17] 17 CFR 200.30–3(a)(12).

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**SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34–76422; File No. SR–NYSE–2015–45]**

**Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Constituting a Stated Interpretation With Respect to the Meaning, Administration, and Enforcement of Rule 28**

November 10, 2015.

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 October 28,

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

2015, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I 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 constitute a stated interpretation with respect to the meaning, administration, and enforcement of Rule 28. The proposed rule change is available on the Exchange's Web site 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 a rule change that constitutes a stated interpretation with respect to the meaning, administration, and enforcement of Rule 28 (''Rule 28''). The Exchange is not proposing any changes to the text of the current version of Rule 28.

Approved in 2003,[4] Rule 28 describes and provides the basis for the Exchange's practice of conducting fingerprint-based criminal record checks. The Rule permits the Exchange to obtain fingerprints of prospective and current employees, temporary personnel, independent contractors and service providers of the Exchange and its principal subsidiaries; submit those fingerprints to the Attorney General of the United States or his or her designee (''Attorney General'') for identification and processing; and receive criminal history record information from the Attorney General for evaluation and use, in accordance with applicable law, in enhancing the security of the facilities, systems, data, and/or records of the Exchange and its principal subsidiaries.

The Exchange utilizes a Live-Scan [5] electronic system to capture and transmit fingerprints directly to the Federal Bureau of Investigation (''FBI''), which maintains on behalf of the Attorney General a database of fingerprint-based criminal history records. The capture and transmittal function, and corresponding receipt of criminal history information from the FBI, is handled directly by Exchange personnel. The Exchange intends to engage an FBI-approved ''Channel Partner'' [6] to maintain and operate, on behalf of the Exchange, a Live-Scan and/or other electronic system(s) for the submission of fingerprints to the FBI; to receive and maintain criminal history record information from the FBI; and to disseminate such information, through secure systems, to a limited set of approved reviewing officials within the Exchange and its affiliates. The Exchange believes Rule 28 allows for the retention of a Channel Partner for these purposes.[7]

The foregoing interpretation is consistent with the Exchange's authority under Section 17(f)(2) of the Act, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (''Dodd-Frank Act''),[8] which requires, *inter alia,* that employees of exchanges be fingerprinted and that exchanges ''shall submit such fingerprints, or cause the same to be submitted, to the Attorney General of the United States for identification and appropriate processing.'' The Exchange further notes that the proposed interpretation is consistent with the rules and procedures at other self-regulatory organizations (''SROs'').[9]

The Exchange accordingly believes that under Rule 28 and applicable statutes, the Exchange has the authority to engage an FBI-approved Channel Partner for some or all of the fingerprinting processes described in the Rule. The Exchange believes that this proposed interpretation would ensure the Exchange's continued compliance with its Rules and applicable state and federal law.[10]

2. Statutory Basis

The Exchange believes that the proposed rule change 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, because it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest. The Exchange believes that the proposed stated interpretation would enable the Exchange to continue to identify and exclude persons with felony or misdemeanor conviction

[4] *See* Securities Exchange Act Release No. 4811 (July 1, 2003), 68 FR 41033 (July 9, 2003) (SR–NYSE–2003–18).

[5] Live-Scan refers to the process of capturing fingerprints directly into a digitized format as opposed to traditional ink and paper methods. Live-Scan technology captures and transfers images to a central location and/or interface for identification processing. The Exchange has used Live-Scan technology for fingerprinting since Rule 28 was approved in 2003.

[6] FBI-approved Channel Partners receive the fingerprint submission and relevant data, collect the associated fee(s), electronically forward the fingerprint submission with the necessary information to the FBI Criminal Justice Information Services Division (''CJIS'') for a national Criminal History Summary check, and receive the electronic summary check result for dissemination to the authorized employer entity. *See* Securities Exchange Act Release No. 71066 (December 12, 2013), 78 FR 76667 (December 18, 2013) (SR–ISE–2013–66).

[7] Rule 28 allows the Exchange to obtain fingerprints from service providers, including employees of affiliates of the Exchange. *See* Chicago Board Options Exchange, Incorporated (''CBOE'') Rule 15.10; Securities Exchange Act Release No. 69496 (May 2, 2013), 78 FR 26671, 26671 (May 7, 2013) (SR–CBOE–2013–044) (CBOE conducts fingerprint-based criminal record checks of directors, officers and employees as well as, without limitation, ''temporary personnel, independent contractors, consultants, vendors and service providers . . . who have or are anticipated to have access to facilities and records.'').

[8] *See* 15 U.S.C. 17(f)(2) [*sic*]; Dodd-Frank Act Sect. 929S.

[9] *See* International Securities Exchange (''ISE'') Rule 1408; Chicago Board Options Exchange (''CBOE'') Rule 15.10. *See generally* Securities Exchange Act Release No. 71066 (December 12, 2013), 78 FR 76667, 76668 n. 12 (December 18, 2013) (SR–ISE–2013–66) (noting that ''[a]n FBI-approved Channel Partner simply helps expedite the delivery of Criminal History Summary information on behalf of the FBI'', and that the ''process for making a request through an FBI-approved Channel Partner is consistent with FBI submission procedures'').

[10] Access to the FBI's fingerprint-based database of criminal records is permitted only when authorized by law. Section 17(f)(2) of the Act explicitly directs the Attorney General to provide SROs designated by the Commission (*e.g.*, the Exchange) with access to such criminal history record information. Further, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Section 17(f)(2) specifically requires, *inter alia*, that employees of national securities exchanges be fingerprinted. New York's General Business Law also requires SROs to fingerprint employees ''as a condition of employment,'' as well as certain non-employee service providers. N.Y. Gen. Bus. Law § 359-e (McKinney).

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

records that may pose a threat to the safety of Exchange personnel or the security of facilities and records, thereby enhancing business continuity, workplace safety and the security of the Exchange's operations and helping to protect investors and the public interest.

Continuing to run fingerprint-based background checks is imperative for the Exchange and its affiliates, as this process helps to identify persons with criminal history records who may pose a threat to the safety of Exchange personnel and/or the security of Exchange facilities and records. This identification and screening process thus enhances business continuity, workplace safety, and the security of the Exchange's operations. The use of an FBI-approved Channel Partner in some or all phases of this process is consistent with Rule 28 and applicable state and federal law, and in furtherance of the important objectives described herein. Additionally, the use of a Channel Partner is consistent with the fingerprinting method currently employed by other SROs.[13] For all these reasons, the proposal is also designed to protect investors as well as the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change would enhance the security of the Exchange's facilities and records without adding any burden on market participants and allow the Exchange continued compliance with its fingerprinting rules and with Section 17(f)(2) of the Act as amended by the Dodd-Frank Act.[14]

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[15] and Rule 19b–4(f)(1)[16] thereunder. The proposed rule change effects a change that constitutes a stated policy, practice or interpretation with respect to the meaning, administration, or enforcement of an existing rule.

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–NYSE–2015–45 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–NYSE–2015–45. 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 Web site (*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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2015–45 and should be submitted on or before December 8, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–29228 Filed 11–16–15; 8:45 am]

**BILLING CODE 8011–01–P**

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## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, November 19, 2015 at 4 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Stein, as duty officer, voted to consider the items listed for the Closed Meeting in closed session.

The subject matter of the Closed Meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

[13] *See* note 9, *supra.*

[14] *See* Section 929S of the Dodd-Frank Act.

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 200.30–3(a)(12).

Dated: November 12, 2015.

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2015–29408 Filed 11–13–15; 11:15 am]

BILLING CODE 8011–01–P

## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

*Extension:*

Rule 17a–12/Form X–17A–5 Part IIB; SEC File No. 270–442, OMB Control No. 3235–0498.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 17a–12 (17 CFR 240.17a–12) and Part IIB of Form X–17A–5 (17 CFR 249.617) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule17a–12 requires OTC derivatives dealers to file quarterly Financial and Operational Combined Uniform Single Reports (''FOCUS'' reports) on Part IIB of Form X–17A–5, the basic document for reporting the financial and operational condition of over-the-counter (''OTC'') derivatives dealers. Rule 17a–12 also requires that OTC derivatives dealers file audited financial statements annually. The reports required under Rule 17a–12 provide the Commission with information used to monitor the operations of OTC derivatives dealers and to enforce their compliance with the Commission's rules. These reports also enable the Commission to review the business activities of OTC derivatives dealers and to anticipate, where possible, how these dealers may be affected by significant economic events.

There are currently four registered OTC derivatives dealers. The staff expects that one additional firm will register as an OTC derivatives dealer within the next three years. The staff estimates that the average amount of time necessary to prepare and file the quarterly reports required by the rule is eighty hours per OTC derivatives dealer [1] and that the average amount of time to prepare and file the annual audit report is 100 hours per OTC derivatives dealer per year, for a total reporting burden of 180 hours per OTC derivatives dealer annually. Thus the staff estimates that the total industry-wide reporting burden to comply with the requirements of Rule 17a–12 is 900 hours per year (180 × 5). Further, the Commission estimates that the total internal compliance cost associated with this requirement is approximately $255,000 per year.[2] The average annual reporting cost per broker-dealer for an independent public accountant to examine the financial statements is approximately $46,300 per broker-dealer. Thus, the total industry-wide annual reporting cost is approximately $231,500 ($46,300 × 5).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following Web site: *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: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 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.

[1] Based upon an average of 4 responses per year and an average of 20 hours spent preparing each response.

[2] Based on staff experience, an OTC derivatives dealer likely would have a Compliance Manager gather the necessary information and prepare and file the quarterly reports and annual audit report and supporting schedules. According to the Securities Industry and Financial Markets Association Report on Management and Professional Earnings in the Securities Industry dated October 2013, which provides base salary and bonus information for middle-management and professional positions within the securities industry, the hourly cost of a compliance manager, which the Commission staff has modified to account for an 1800-hour work year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead, is approximately $283/hour. $283/hour times 900 hours = $254,700, rounded to $255,000.

Dated: November 10, 2015.

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–29202 Filed 11–16–15; 8:45 am]

BILLING CODE 8011–01–P

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–76419; File No. SR–BATS–2015–99]**

### Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees

November 10, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 2, 2015, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') 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 Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act [3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. 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 filed a proposal to amend its fees and rebates applicable to Members [5] and non-members of the Exchange pursuant to BATS Rules 15.1(a) and (c) (''Fee Schedule'').

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.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.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The term ''Member'' is defined as ''any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange [sic]. A Member will have the status of a ''member'' of the Exchange as that term is defined in Section 3(a)(3) of the Act.'' *See* Exchange Rule 1.5(n).

**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 parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to increase the fee for orders yielding fee code D, which results from an order routed to the New York Stock Exchange (''NYSE'') using Destination Specific, RDOT, RDOX, TRIM or SLIM routing strategy. The Exchange has previously provided a discounted fee for certain orders routed to the largest market centers measured by volume (NYSE, NYSE Arca and NASDAQ), which, in each instance has been $0.0001 less per share for orders routed to such market centers by the Exchange than such market centers currently charge for removing liquidity (referred to by the Exchange as ''One Under'' pricing). NYSE is implementing certain pricing changes effective November 2, 2015, including modification from a fee to remove liquidity of $0.0027 per share to a fee of $0.00275 per share.[6] Based on the changes in pricing at NYSE, the Exchange is proposing to increase its fee for orders executed at NYSE that yield fee code D so that the fee remains $0.0001 less per share for orders routed to NYSE. Specifically, the Exchange proposes to increase the fee charged for such orders from $0.0026 per share to $0.00265 per share.

In addition to the change proposed above, the Exchange proposes to change certain references on the Fee Schedule in connection with the launch of the options exchange operated by the Exchange's affiliate, EDGX Exchange, Inc. (''EDGX Options''). First, the Exchange propose [sic] to modify references in the Definitions section of the fee schedule and Unicast Access section under BATS Connect fees to refer to ''BZX Options'' instead of ''BATS Options''. Second, the Exchange proposes to add reference to EDGX Options in the list of Exchange affiliates to which such fees do not apply.

Implementation Date

The Exchange proposes to implement these amendments to its Fee Schedule immediately.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[7] in general, and furthers the objectives of Section 6(b)(4),[8] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange believes that its proposal to increase the fee for Members' orders that yield fee code D from $0.0026 per share to $0.00265 per share represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities in that they are designed to provide a reduced fee for orders routed to NYSE through Exchange routing strategies as compared to applicable fees for executions if such routed orders were instead executed directly by the Member at NYSE. Furthermore, the Exchange notes that routing through the Exchange is voluntary. Lastly, the Exchange also believes that the proposed amendment is non-discriminatory because it applies uniformly to all Members. The Exchange also believes that the changes to add EDGX Options to the list of affiliates under Unicast Access and the re-naming of BATS Options as BZX Options is consistent with the Act. Such changes reflect and are in connection with the launch of EDGX Options but do not result in any material change to the Exchange's Fee Schedule or impose any new or different fee.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

These proposed rule changes do not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that any of these changes represent a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Additionally, Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets. The Exchange believes that its proposal to charge a fee of $0.00265 per share for Members' orders that yield fee code D would increase intermarket competition because it offers customers an alternative means to route to NYSE at a discounted rate. The Exchange believes that its proposal would not burden intramarket competition because the proposed rate would apply uniformly to all Members.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [9] and paragraph (f) of Rule 19b–4 thereunder.[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 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–BATS–2015–99 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange

[6] *See* NYSE Trader Update, Fee Changes Effective November 2, dated October 30, 2015, *available at https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Client_Notice_Fee_Change_11_2015.pdf.*

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f).

Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BATS–2015–99. 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 Web site (*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 Web site 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BATS–2015–99, and should be submitted on or before December 8, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–29223 Filed 11–16–15; 8:45 am]

**BILLING CODE 8011–01–P**

[11] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–76408; File No. SR–C2–2015–027]**

## Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Qualification and Registration of Permit Holders

November 10, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 2, 2015, C2 Options Exchange, Incorporated (the ''Exchange'' or ''C2'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Interpretation and Policy .07 to Rule 3.4 (Qualification and Registration) regarding the categories of registration and respective qualification examinations required for individual Permit Holder [*sic*] and associated persons of Permit Holders that engage in the securities activities of the Permit Holder on the Exchange. Specifically, the Exchange proposes to replace the Proprietary Trader registration category and the Series 56 Proprietary Trader registration qualification examination for Proprietary Traders with the Securities Trader category of registration and the Series 57 Securities Trader registration qualification examination for Securities Traders respectively. The text of the proposed rule change is available on the Exchange's Web site (*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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend Interpretation and Policy .07 to Rule 3.4 (Qualification and Registration) to replace the Proprietary Trader (PT) registration category and qualification examination (Series 56) with the Securities Trader (TD) registration category and qualification examination (Series 57). In addition, the Exchange proposes to replace the Proprietary Trader Principal (TP) registration category with a Securities Trader Principal (TP) registration category for individual TPHs or associated person [sic] who either: (i) Supervise or monitor proprietary trading, market-making and/or brokerage activities for broker-dealers; (ii) supervise or train those engaged in proprietary trading, market-making and/or effecting transactions on behalf of a broker-dealer, with respect to those activities; and/or (iii) are officers, partners or directors of a Permit Holder, as described in paragraph (a)(2) of Interpretation and Policy .07 to Rule 3.4. The Exchange also proposes to replace the Proprietary Trader Compliance Officer (CT) registration category with the Securities Trader Compliance Officer (CT) registration category for Chief Compliance Officers (or individuals performing similar functions) of a TPH or TPH organization. This filing is, in all material respects, based upon SR–FINRA–2015–017, which was recently approved by the Securities and Exchange Commission (''SEC'' or ''Commission'').[3]

Rule 3.4 sets forth various qualification and registration requirements that individual Permit Holders and associated persons must satisfy in order to transact business on the Exchange. Among the qualification and registration requirements set forth in Rule 3.4, Interpretation and Policy .07 provides that individual Permit Holders and associated persons that engage in proprietary trading, market-making, or effect transactions on behalf of a broker-dealer must register and qualify as a Proprietary Trader (TP) in WebCRD.[4] To qualify as a Proprietary

[3] *See* Securities Exchange Act Release No. 75783 (August 28, 2015) (Order Approving a Proposed Rule Change To Establish the Securities Trader and Securities Trader Principal Registration Categories) (SR–FINRA–2015–017).

[4] WebCRD is a secure registration and licensing system operated by FINRA and is the central

Continued

Trader, individual Permit Holders and associated persons must either pass the Series 56 Proprietary Trader qualification examination [5] or Series 7 General Securities Representative qualification examination.[6] Several exchanges, including C2 currently use the Series 56 examination as a qualification standard.[7]

Interpretation and Policy .07 to Rule 3.4 further requires that individual Permit Holders and associated persons with supervisory responsibility over proprietary trading activities or who is [sic] an officer, partner, or director of a Permit Holder or Permit Holder organization qualify and register as a Proprietary Trader Principal. Specifically, under paragraph (a)(2) of Interpretation and Policy .07 to Rule 3.4, an individual Permit Holder or associated person who either: (i) Supervises or monitors proprietary trading, market-making and/or brokerage activities for broker-dealers; (ii) supervises or trains those engaged in proprietary trading, market-making and/or effecting transactions on behalf of a broker-dealer, with respect to those activities; and/or (iii) is an officer, partner or director of a Permit Holder is required register and qualify as a Proprietary Trader Principal (TP) in WebCRD and satisfy prerequisite registration and qualification requirements, including, but not limited to passing the Series 24 General Securities Principal Examination or an acceptable alternative qualification examination.[8] An individual Permit Holder or associated person who is a Chief Compliance Officer (or performs similar functions) for a Permit Holder that engages in proprietary trading, market-making, or effecting transactions on behalf of a broker-dealer is also required to register and qualify as a Proprietary Trader Compliance Officer (CT) in WebCRD and satisfy the prerequisite registration and qualification requirements, including, but not limited to passing the Series 14 Compliance Official Examination.[9]

The Exchange proposes to replace the Series 56 qualification examination with the Series 57 qualification examination for those registration categories where the Series 56 is currently an acceptable qualification standard.[10] Specifically, with respect to the Proprietary Trader registration categories identified in Interpretation and Policy .07 to Rule 3.4, the Exchange proposes to replace the Proprietary Trader (PT) registration category with the Securities Trader (TD) registration category as well as eliminate the current Series 56 Proprietary Trader Exam prerequisite and, instead, include a Series 57 Securities Trader qualification examination in its place.[11] The Proprietary Trader Principal (PT) and Proprietary Trader Compliance Officer (CT) registration categories would be replaced with the renamed registration categories of Securities Trader Principal (PT) and Securities Trader Compliance Officer respectively (CT).[12]

The Exchange will announce the effective date of the proposed rule change in a Regulatory Circular. Currently, the Exchange intends for the effective date to be January 4, 2016. Under the proposed rule, individual Permit Holders and associated persons who have passed the Proprietary Trader (Series 56) qualification examination and who have registered as Proprietary Trader [sic] (PT) in WebCRD on or before the effective date of the proposed rule change and individual Permit Holders and associated persons who have passed the General Securities Representative (Series 7) qualification examination and who have registered as Proprietary Traders (PT) in WebCRD on or before the effective date of the proposed rule change would be grandfathered as Securities Traders (TDs) without having to take any additional examinations and without having to take any other action, provided that the individual TPH's or associated person's registration has not been revoked by the Exchange as a disciplinary sanction and no more than two years have passed between the date that the individual Permit Holder or associated person last registered as a Proprietary Trader (PT) and the effective date. After the effective date, an individual Permit Holder or associated person would need to pass the new Series 57 Securities Trader qualification examination and register as a Securities Trader (TD).

In addition, individual Permit Holders and associated persons who have either passed the Proprietary Trader (PT) qualification examination or the General Securities Representative (Series 7) qualification examination and who have registered as Proprietary Traders (PT) in WebCRD on or before the effective date of the proposed rule change and who have also passed the General Securities Principal (Series 24) qualification examination (or have completed any of the alternative acceptable qualifications requirements

licensing and registration system for the U.S. securities industry and its regulators. The system contains the registration records of more than 6,500 registered broker-dealers, and the qualification, employment and disclosure histories of more than 650,000 active registered individuals. In addition, Web CRD facilitates the processing and payment of FINRA registration-related fees such as form filings, fingerprint submissions, qualification exams and continuing education sessions.

[5] The Series 56 Proprietary Trader Examination is a two hour and thirty minute exam, consisting of 100 scored multiple-choice questions. The Series 56 examination is administered by FINRA, but is not recognized by FINRA as an acceptable qualification examination for associated persons engaged in securities trading. Under FINRA rules, associated persons of FINRA members that engage in over-the-counter securities trading are required to pass the Series 55 Equity Trader Exam. Nevertheless, as FINRA has recognized, because the Series 55 and Series 56 are intended to test the core knowledge required of individuals engaged in trading activities as well as self-regulatory organization (''SRO'') rules, including trading rules that are common across all SROs, there is significant overlap in the content of the Series 55 and Series 56 qualification examinations. *See* Securities Exchange Act Release No. 75394 (July 8, 2015), 80 FR 41119 (Notice of Filing of a Proposed Rule Change to Establish the Securities Trader and Securities Trader Principal Registration Categories) (SR–FINRA–2015–017).

[6] *See* Interpretation and Policy .08 to Rule 3.6A.

[7] *See, e.g.*, BATS Exchange, Inc. (''BATS'') Interpretation and Policy .01 to Rule 2.5 (Proficiency Examinations); Miami International Securities Exchange, LLC (''MIAX'') Rule 1302 (Registration of Representatives). *See also* Interpretation and Policy .07 to Rule 3.4.

[8] Under current Interpretation and Policy .07 to Rule 3.4, the Series 9/10 General Securities Sales Supervisor Examination and Series 23 General Securities Principal Exam—Sales Supervisor Module are acceptable alternative qualification examinations to the Series 24 General Securities Principal Examination. Because the Series 23 is not available in WebCRD, however, each applicant that chooses to take the Series 23 module as an alternative to the Series 24 qualification examination must provide documentation of a valid Series 23 license to the Registration Services Department upon request for proof of licensure.

[9] Under current Interpretation and Policy .07 to Rule 3.4, the Series 24 General Securities Principal Examination is considered an acceptable alternative qualification examination for the Series 14 Compliance Official Examination and registered General Securities Principals may register as Proprietary Trader Compliance Officers subject to applicable provisions under the Rules. *See* Interpretation and Policy .07(b) to Rule 3.4.

[10] *See* Interpretation and Policy .07 to Rule 3.4.

[11] Neither the Exchange's current Rules nor the proposed rule would require that a Proprietary Trader or Securities Trader work at, or be associated with, a ''proprietary trading firm.'' Rather, both the current Rules and the proposed rule would require that individual Permit Holders and associated persons that engage in proprietary trading, market-making, or effect transactions on behalf of a broker-dealer to [sic] qualify and register as a [sic] Proprietary Trader (or Securities Trader) in WebCRD. Whereas the current rule allows individual Permit Holders and associated persons to qualify and register as a [sic] Proprietary Trader by either passing the Series 56 Proprietary Trader qualification examination or Series 7 General Securities Representative qualification examination, the proposed rule would require individual Permit Holders and associated persons to pass the Series 57 Securities Trader qualification examination in order to qualify as a [sic] Securities Trader after the effective date of the proposed rule change.

[12] As is the case under the current Rules, under the proposed rule, only individuals qualified and registered as a [sic] Proprietary Trader Principal (TP) (Securities Trader Principal TP)) would be permitted to supervise a Proprietary Trader (PT) (Securities Trader (TD)).

as defined in current Interpretation and Policy .07(b) to Rule 3.4) and who have also registered as Proprietary Trader Principals (TP) in WebCRD on or before the effective date of the proposed rule change would be eligible to register as Securities Trader Principals (TPs), provided that the individual Permit Holders or associated person's registration has not been revoked by the Exchange as a disciplinary sanction and no more than two years have passed between the date that the individual Permit Holder or associated person last registered as a Proprietary Trader Principal (TP) and the date they [sic] register as a Securities Trader Principal (TP).[13] After the effective date, a Securities Trader Principal (TP) would need to pass the Securities Trader (Series 57) qualification examination and the General Securities Principal (Series 24) qualification examination (or have completed any of the alternative acceptable qualifications as defined in current Interpretation and Policy .07(b) to Rule 3.4) and be registered as such in order to register as a Securities Trader Principal (TP).[14]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[15] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [16] 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) [17] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that adoption of the Securities Trader registration category and Series 57 Securities Trader qualification examination registration requirement is consistent with the Act. FINRA has indicated that the Series 57 qualification examination is being developed in an effort to adopt a more tailored examination. The Exchange believes that a more tailored qualification examination for individual Permit Holders and associated persons engaged in trading activities is a measure designed to help ensure professionalism among market participants, prevent fraudulent and manipulative practices, and promote just and equitable principles of trade. The Exchange also believes that it is in the interests of investors and the general public to develop a more tailored qualification examination for proprietary traders and that a more uniform qualification standard may help ensure fair and orderly markets. Furthermore, the Exchange believes that it is in the interests of all market participants to provide consistent qualification and registration requirements across markets. The Exchange believes that harmonizing the Exchange's qualification and registration requirements with those of FINRA and the other national securities exchanges would further such interests.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change relating to Securities Traders, which is, in all material respects, based upon and substantially similar to, recent rule changes adopted by FINRA and which is being filed in conjunction with similar filings by the other national securities exchanges, will reduce the regulatory burden placed on market participants engaged in trading activities across different markets. The Exchange believes that the harmonization of these registration requirements across the various markets will reduce burdens on competition by removing impediments to participation in the national market system and promoting competition among participants across the multiple national securities exchanges.

*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 written comments on the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. Significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [18] and Rule 19b–4(f)(6) [19] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–C2–2015–027 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–C2–2015–027. This file number should be included on the

[13] *See* Rule 3.4(e) (Requirement for Examination on Lapse of Registration).

[14] The Exchange also proposes to add text to Interpretation and Policy .07(b) to Rule 3.4 regarding the supervisory responsibilities of the Securities Trader Principals, which would limit Securities Trader Principals' supervisory responsibilities to supervision of the securities trading functions of Permit Holders as described in paragraph (a)(2) of Interpretation and Policy .07 to Rule 3.4, and the activities of officers, partners, and directors of Permit Holders.

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

[17] *Id.*

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f)(6).

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 Web site (*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 Web site 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–C2–2015–027 and should be submitted on or before December 8, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–29224 Filed 11–16–15; 8:45 am]

**BILLING CODE 8011–01–P**

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–76416; File No. SR–ISEGemini–2015–24]**

## Self-Regulatory Organizations; ISE Gemini, LLC; Notice of Filing of Proposed Rule Change Relating to a Corporate Transaction Involving Its Indirect Parent

November 10, 2015.

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 October 30, 2015, ISE Gemini, LLC (the ''Exchange'' or the ''ISE Gemini'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change, as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to remove Eurex Frankfurt AG (''Eurex Frankfurt'') as an indirect, non-U.S. upstream owner of the Exchange (the ''Transaction''). In order to consummate the Transaction, the Exchange proposes to: (i) Amend and restate the Third Amended and Restated Trust Agreement (the ''Trust Agreement'') that exists among International Securities Exchange Holdings, Inc. (''ISE Holdings''), U.S. Exchange Holdings, Inc. (''U.S. Exchange Holdings''), and the Trustees (as defined therein) in order to remove references to Eurex Frankfurt; and (ii) amend and restate the Third Amended and Restated Certificate of Incorporation of U.S. Exchange Holdings (''U.S. Exchange Holdings COI'') to update a reference therein to the Trust Agreement.

The text of the proposed rule change is available at the Commission's Public Reference Room and on the Exchange's Internet Web site at *http://www.ise.com.*

### II. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

#### *A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of the proposal is to remove Eurex Frankfurt as an indirect, non-U.S. upstream owner of the Exchange.[3]

Background

On December 17, 2007, ISE Holdings, the sole, direct parent of the Exchange, became a direct, wholly-owned subsidiary of U.S. Exchange Holdings. U.S. Exchange Holdings is 85% directly owned by Eurex Frankfurt and 15% directly owned by Deutsche Börse AG (''Deutsche Börse''). Eurex Frankfurt is a wholly-owned, direct subsidiary of Deutsche Börse.[4] Deutsche Börse therefore owns 100% of U.S. Exchange Holdings through its aggregate direct and indirect ownership.

The Transaction

The Transaction is designed to simplify the indirect ownership structure of the Exchange.[5] The Transaction will not have any effect on ISE Holdings' direct ownership of the Exchange or the operations of the Exchange. Consummation of the Transaction is subject to approval of this proposed rule change by the Commission.[6] In order to effectuate the Transaction, on or about December 31, 2015, Eurex Frankfurt will transfer its 85% ownership in U.S. Exchange Holdings to Deutsche Börse.[7] As a result of the Transaction, Eurex Frankfurt will cease to be a Non-U.S. Upstream Owner of the Exchange, as Deutsche Börse will be the sole, direct owner of U.S. Exchange Holdings.[8] U.S. Exchange

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[20] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange's affiliate, International Securities Exchange, LLC (''ISE''), has submitted a nearly identical proposed rule change. *See* SR–ISE–2015–36. The Commission granted the Exchange's application for registration as a national securities exchange on July 26, 2013. *See* Securities Exchange Act Release No. 70050 (July 26, 2013), 78 FR 46622 (File No. 10–209). The Exchange was originally named ''Topaz Exchange, LLC.''

[4] Each of Deutsche Börse and Eurex Frankfurt is referred to as a ''Non-U.S. Upstream Owner'' and collectively as the ''Non-U.S. Upstream Owners.'' Each of the Non-U.S. Upstream Owners has previously taken appropriate steps to incorporate provisions regarding ownership, jurisdiction, books and records, and other issues related to their control of the Exchange. Specifically, each of the Non-U.S. Upstream Owners has adopted resolutions, which were previously approved by the Commission, to incorporate these concepts with respect to itself, as well as its board members, officers, employees, and agents (as applicable), to the extent that they are involved in the activities of the Exchange. *See* File No. 10–209, *supra* note 3.

[5] In 2014 the Exchange submitted a proposed rule change with the Commission to similarly simplify the indirect ownership structure of the Exchange. *See* Securities Exchange Act Release No. 73861 (December 17, 2014), 79 FR 77064 (December 23, 2014) (SR–ISEGemini–2014–24).

[6] *See infra* notes 14 and 15.

[7] As referenced above, Deutsche Börse is already the 100% indirect owner of Eurex Frankfurt. In addition, Deutsche Börse also is already an approved Non-U.S. Upstream Owner of the Exchange. *See supra* note 4.

[8] In connection with each of their ownership interests in the Exchange, Deutsche Börse, Eurex Frankfurt, U.S. Exchange Holdings, ISE Holdings and ISE became parties to an agreement to provide for adequate funding for the Exchange's regulatory responsibilities. The Exchange subsequently became a party to the agreement. ISE Gemini subsequently became a party to the agreement. Following the completion of the Transaction, Eurex

Holdings will remain the sole, direct owner of ISE Holdings. ISE Holdings will also remain the sole, direct owner of the Exchange. The Transaction will not result in any additional person or entity acquiring direct or indirect ownership in the Exchange.

In order to consummate the Transaction in the manner described above, certain administrative amendments will need to be made to the Trust Agreement and the U.S. Exchange Holdings COI. The proposed amendments to such documents are described below.

Trust Agreement [9]

The Trust Agreement serves four general purposes: (i) To accept, hold and dispose of Trust Shares [10] on the terms and subject to the conditions set forth therein; (ii) to determine whether a Material Compliance Event [11] has occurred or is continuing; (iii) to determine whether the occurrence and continuation of a Material Compliance Event requires the exercise of the Call Option; [12] and (iv) to transfer Deposited Shares from the Trust to the Trust Beneficiary [13] as provided in Section 4.2(h) therein.

The Exchange proposes to amend certain provisions of the Trust Agreement in connection with the Transaction. Specifically, the Exchange proposes to: (i) Update the recitals of the Trust Agreement with respect to the Transaction; and (ii) remove references to Eurex Frankfurt from the definition of ''Affected Affiliate'' in Section 1.1 of the Trust Agreement.[14] The proposed amendments to the Trust Agreement are strictly administrative changes to reflect the updated corporate structure resulting from the Transaction and will not affect the mechanisms established by the Trust Agreement for the benefit of the Trust Beneficiary.

U.S. Exchange Holdings COI

The Exchange proposes to make a non-substantive, administrative change to the U.S. Exchange Holdings COI to update a reference therein to the Trust Agreement. Article THIRTEENTH of the U.S. Exchange Holdings COI contains references to (i) the ''Third Amended and Restated'' Trust Agreement, which, as discussed herein, will become the ''Fourth Amended and Restated'' Trust Agreement; and (ii) the effective date of the Trust Agreement, which, as discussed herein, will change to a date in December 2015 that corresponds to the effective closing date of the Transaction. The Exchange proposes to update these references. The Exchange also proposes to retitle the document as the ''Fourth'' Amended and Restated Certificate of Incorporation of U.S. Exchange Holdings and update the effective date thereof.[15]

Certain Resolutions

As described above, each of the Non-U.S. Upstream Owners, including Eurex Frankfurt, has previously taken appropriate steps to incorporate provisions regarding ownership, jurisdiction, books and records, and other issues related to their control of the Exchange. Specifically, each of such Non-U.S. Upstream Owners has adopted resolutions, which were previously approved by the Commission, to incorporate these concepts with respect to itself, as well as its board members, officers, employees, and agents (as applicable), to the extent that they are involved in the activities of the Exchange.[16] For example, the resolution of each of such Non-U.S. Upstream Owners provides that it shall comply with the U.S. federal securities laws and the rules and regulations thereunder and shall cooperate with the Commission and with the Exchange. In addition, the resolution of each of such Non-U.S. Upstream Owners provides that the board members, including each person who becomes a board member, would so consent to comply and cooperate and the particular Non-U.S. Upstream Owner would take reasonable steps to cause its officers, employees, and agents to also comply and cooperate, to the extent that he or she is involved in the activities of the Exchange.

As Eurex Frankfurt will cease to be a Non-U.S. Upstream Owner of the Exchange after the Transaction, the Exchange proposes that the resolutions of Eurex Frankfurt, as referenced above, will cease to be rules of the Exchange as of a date in December 2015 that corresponds to the effective closing date of the Transaction.[17]

Summary

Upon the consummation of the Transaction the Exchange will continue to operate and regulate its market and members in the same exact manner as it did prior to the Transactions. The Transaction will not impair the ability of ISE Holdings, the Exchange, or any facility thereof, to carry out their respective functions and responsibilities under the Act. Moreover, the Transaction will not impair the ability of the Commission to enforce the Act with respect to the Exchange and its Non-U.S. Upstream Owners (which will solely be Deutsche Börse after the Transaction), including each of their directors, officers, employees and agents, to the extent they are involved in the activities of the Exchange. As such, the Commission's plenary

Frankfurt will cease to be a Non-U.S. Upstream Owner of the Exchange, and as such, will no longer be a party to such agreement.

[9] The Trust Agreement exists among ISE Holdings, U.S. Exchange Holdings, and the Trustees (as defined therein).

[10] Under the Trust Agreement, the term ''Trust Shares'' means either Excess Shares or Deposited Shares, or both, as the case may be. The term ''Excess Shares'' means that a Person obtained an ownership or voting interest in ISE Holdings in excess of certain ownership and voting restrictions pursuant to Article FOURTH of the ISE Holdings COI, through, for example, ownership of one of the Non-U.S. Upstream Owners or U.S. Exchange Holdings, without obtaining the approval of the Commission. The term ''Deposited Shares'' means shares that are transferred to the Trust pursuant to the Trust's exercise of the Call Option.

[11] Under the Trust Agreement, the term ''Material Compliance Event'' means, with respect to a Non-U.S. Upstream Owner, any state of facts, development, event, circumstance, condition, occurrence or effect that results in the failure of any of the Non-U.S. Upstream Owners to adhere to their respective commitments under the resolutions (*i.e.*, as referenced in note 4) in any material respect.

[12] Under the Trust Agreement, the term ''Call Option'' means the option granted by the Trust Beneficiary to the Trust to call the Voting Shares as set forth in Section 4.2 therein.

[13] Under the Trust Agreement, the term ''Trust Beneficiary'' means U.S. Exchange Holdings.

[14] The proposed, amended Trust Agreement is attached hereto as Exhibit 5A. Section 8.2 of the Trust Agreement provides, in part, that, for so long as ISE Holdings controls, directly or indirectly, the Exchange, before any amendment or repeal of any provision of the Trust Agreement shall be effective, such amendment or repeal shall be submitted to the board of directors of the Exchange, as applicable, and if such amendment or repeal must be filed with or filed with and approved by the Commission under Section 19 of the Securities Exchange Act of 1934 (the ''Act'') and the rules promulgated thereunder before such amendment or repeal may be effectuated, then such amendment or repeal shall not be effectuated until filed with or filed with and approved by the Commission, as the case may be. The Exchange also proposes to retitle the Trust Agreement as the ''Fourth'' Amended and Restated Trust Agreement and update the date thereof.

[15] The proposed, amended U.S. Exchange Holdings COI is attached hereto as Exhibit 5B. Article SIXTEENTH of the U.S. Exchange Holdings COI provides that, for so long as U.S. Exchange Holdings shall control, directly or indirectly, the Exchange, or facility thereof, before any amendment to or repeal of any provision of the U.S. Exchange Holdings COI shall be effective, the same shall be submitted to the board of directors of the Exchange, and if the same must be filed with, or filed with and approved by, the Commission before the same may be effective, under Section 19 of the Act and the rules promulgated thereunder, then the same shall not be effective until filed with, or filed with and approved by, the Commission, as the case may be.

[16] *See supra* note 4. *See* also File No. 10–209, *supra* note 3.

[17] As referenced above, resolutions in relation to board members, officers, employees, and agents (as applicable) of Eurex Frankfurt also would cease accordingly. This proposed change would have no impact on the resolutions of Deutsche Börse or its board members, officers, employees, and agents (as applicable).

regulatory authority over the Exchange will not be affected by the approval of this proposed rule change.

2. Statutory Basis

The Exchange believes that this proposal is consistent with Section 6(b)of the Act,[18] in general, and furthers the objectives of Section 6(b)(1) of the Act,[19] in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. The Exchange will operate in the same manner following the Transaction as it operates today. Thus, the Commission will continue to have plenary regulatory authority over the Exchange, as is the case currently with the Exchange. The proposed rule change is consistent with and will facilitate an ownership structure that will continue to provide the Commission with appropriate oversight tools to ensure that the Commission will have the ability to enforce the Act with respect to the Exchange and its Non-U.S. Upstream Owners, including their directors, officers, employees and agents, to the extent they are involved in the activities of the Exchange.

The Exchange also believes that this filing furthers the objectives of Section 6(b)(5) [20] of the Act because the proposed rule change would be consistent with and facilitate a governance and regulatory structure that 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 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. Specifically, the Exchange believes that the proposed rule change will continue to provide the Commission and the Exchange with access to necessary information that will allow the Exchange to efficiently and effectively enforce compliance with the Act, as well as allow the Commission to provide proper oversight, which will ultimately promote just and equitable principles of trade and protect investors.

[18] 15 U.S.C. 78s(b).

[19] 15 U.S.C. 78s(b)(1).

[20] 15 U.S.C. 78f(b)(5).

In addition, the Exchange believes that the proposed rule change will continue to preserve the independence of the Exchange's self-regulatory function and ensure that the Exchange will be able to obtain any information it needs in order to detect and deter any fraudulent and manipulative acts in its marketplace and carry out its regulatory responsibilities under the Act.

Approval of this proposed rule change will enable ISE Holdings to continue its operations and the Exchange to continue its orderly discharge of regulatory duties 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.

Finally, the Exchange is not proposing any significant or novel regulatory issues, nor is it proposing any changes to the Exchange's operational or trading structure in connection with the Transaction. Instead, the Exchange represents that the proposed rule change consists of administrative amendments to the Trust Agreement and the U.S. Exchange Holdings COI and addresses certain resolutions in relation to Eurex Frankfurt, which currently is a Non-U.S. Upstream Owner of the Exchange, but whose status as such will cease as a result of the Transaction, such that the resolutions will cease to be rules of the Exchange as they relate to Eurex Frankfurt, and that no changes will be made to other aspects of the Exchange's organizational documents that were previously approved by the Commission.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,[21] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change implicates any competitive issues. Rather, the Transaction merely represents a restructuring of indirect ownership interests of the Exchange, and will not involve the introduction of any new direct or indirect owners or any entity or individual that would have the right to direct the actions of the Exchange or vote the shares of the Exchange. As such, the Exchange believes that the proposal is consistent with the Act.

[21] 15 U.S.C. 78f(b)(8).

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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–ISEGemini-2015–24 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISEGemini–2015–24. This file number should be included on the subject line if email is used.

To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*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 Web site viewing and printing in the Commission's Public Reference Room on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISEGemini-2015–24, and should be submitted on or before December 8, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–29215 Filed 11–16–15; 8:45 am]

**BILLING CODE 8011–01–P**

[22] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–76418; File No. SR–BYX–2015–47]**

## Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees

November 10, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 2, 2015, BATS Y-Exchange, Inc. (the ''Exchange'' or ''BYX'') 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 Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. 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 filed a proposal to amend the fees and rebates applicable to Members[5] and non-members of the Exchange pursuant to Rule 15.1(a) and (c) (''Fee Schedule'').

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.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 parts of such statements.

*(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to increase the fee for orders yielding fee code D, which results from an order routed to the New York Stock Exchange (''NYSE'') using Destination Specific, RDOT, RDOX, TRIM or SLIM routing strategy. The Exchange has previously provided a discounted fee for certain orders routed to the largest market centers measured by volume (NYSE, NYSE Arca and NASDAQ), which, in each instance has been $0.0001 less per share for orders routed to such market centers by the Exchange than such market centers currently charge for removing liquidity (referred to by the Exchange as ''One Under'' pricing). NYSE is implementing certain pricing changes effective November 2, 2015, including modification from a fee to remove liquidity of $0.0027 per share to a fee of $0.00275 per share.[6] Based on the changes in pricing at NYSE, the Exchange is proposing to increase its fee for orders executed at NYSE that yield fee code D so that the fee remains $0.0001 less per share for orders routed to NYSE. Specifically, the Exchange proposes to increase the fee charged for such orders from $0.0026 per share to $0.00265 per share.

In addition to the change proposed above, the Exchange proposes to change certain references on the Fee Schedule in connection with the launch of the options exchange operated by the Exchange's affiliate, EDGX Exchange, Inc. (''EDGX Options''). First, the Exchange propose [sic] to modify references in the Unicast Access section under BATS Connect fees to refer to ''BZX Options'' instead of ''BATS Options''. Second, the Exchange proposes to add reference to EDGX Options in the list of Exchange affiliates to which such fees do not apply.

*Implementation Date*

The Exchange proposes to implement these amendments to its Fee Schedule immediately.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[7] in general, and furthers the objectives of Section 6(b)(4),[8] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange believes that its proposal to increase the fee for Members' orders that yield fee code D from $0.0026 per share to $0.00265 per share represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities in that they are designed to provide a reduced fee for orders routed to NYSE through Exchange routing strategies as compared to applicable fees for executions if such routed orders were instead executed directly by the Member at NYSE. Furthermore, the Exchange notes that routing through the Exchange is voluntary. Lastly, the Exchange also believes that the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The term ''Member'' is defined as ''any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange [sic]. A Member will have the status of a ''member'' of the Exchange as that term is defined in Section 3(a)(3) of the Act.'' *See* Exchange Rule 1.5(n).

[6] *See* NYSE Trader Update, Fee Changes Effective November 2, dated October 30, 2015, *available at https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Client_Notice_Fee_Change_11_2015.pdf.*

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(4).

proposed amendment is non-discriminatory because it applies uniformly to all Members. The Exchange also believes that the changes to add EDGX Options to the list of affiliates under Unicast Access and the re-naming of BATS Options as BZX Options is consistent with the Act. Such changes reflect and are in connection with the launch of EDGX Options but do not result in any material change to the Exchange's Fee Schedule or impose any new or different fee.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

These proposed rule changes do not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that any of these changes represent a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Additionally, Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets. The Exchange believes that its proposal to charge a fee of $0.00265 per share for Members' orders that yield fee code D would increase intermarket competition because it offers customers an alternative means to route to NYSE at a discounted rate. The Exchange believes that its proposal would not burden intramarket competition because the proposed rate would apply uniformly to all Members.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [9] and paragraph (f) of Rule 19b–4 thereunder.[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 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–BYX–2015–47 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–BYX–2015–47. 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 Web site (*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 Web site 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 will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BYX–2015–47 and should be submitted on or before December 8, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–29222 Filed 11–16–15; 8:45 am]

**BILLING CODE 8011–01–P**

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f).

[11] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–76412; File No. SR–NYSEArca–2015–111]**

## Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Listing and Trading of Shares of the RiverFront Strategic Income Fund Under NYSE Arca Equities Rule 8.600

November 10, 2015.

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 4, 2015, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

## I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to reflect a change to the means of achieving the investment objective applicable to shares of the RiverFront Strategic Income Fund, which has been approved by the Securities and Exchange Commission (''Commission''), and is currently listed and traded on the Exchange, under NYSE Arca Equities Rule 8.600. The proposed rule change is available on the Exchange's Web site 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,

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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 Commission has approved listing and trading on the Exchange of shares (''Shares'') of the RiverFront Strategic Income Fund (the ''Fund''), a series of the ALPS ETF Trust (the ''Trust''),[4] under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares. The Fund is an actively managed exchange traded fund. The Shares are offered by the Trust.[5] Shares of the Fund are currently listed and traded on the Exchange under NYSE Arca Equities Rule 8.600.

RiverFront Investment Group, LLC (''RiverFront'') is the investment sub-adviser for the Fund (the ''Sub-Adviser'').

As stated in the Prior Release, the Fund's investment objective is to seek total return, with an emphasis on income as the source of that total return. The Fund seeks to achieve its investment objective by investing in a global portfolio of fixed income securities of various maturities, ratings and currency denominations. The Fund utilizes various investment strategies in a broad array of fixed income sectors. The Fund allocates its investments based upon the analysis of the Sub-Adviser of the pertinent economic and market conditions, as well as yield, maturity and currency considerations.

In this proposed rule change, the Exchange proposes to reflect a change to the description of the investments the Sub-Adviser will utilize to implement the Fund's investment objective, as described below.[6]

First, the Prior Release stated that the Fund may invest up to 5% of its assets in mortgage-backed securities (''MBS'') (which may include commercial MBS) or other asset-backed securities (''ABS'') issued or guaranteed by private issuers.[7] The Sub-Adviser wishes to change this representation to state that the Fund may invest up to 20% of its total assets in MBS and ABS that are privately issued, non-agency and non-government sponsored entity (''Private MBS/ABS'').[8] Such holdings would be subject to the limitation on the Fund's investments in illiquid assets. The liquidity of a security, especially in the case of Private MBS/ABS, will be a substantial factor in the Fund's security selection process.

The Sub-Adviser believes the revised representations will permit the Sub-Adviser, through such additional flexibility, to better achieve the Fund's stated investment objective to seek total return, with an emphasis on income as the source of that total return. The Fund will continue to primarily invest in fixed income instruments. The Sub-Adviser represents that the purpose of this change is to provide additional flexibility to the Sub-Adviser to meet the Fund's investment objective by potentially expanding the percentage of the Fund's assets that may be allocated to Private MBS/ABS that would provide the Fund with an enhanced ability to identify debt issues that have sound investment characteristics while providing the potential for an increased yield for investors.

Second, the Prior Release stated that the Fund may not hold more than 15% of its net assets in: (1) illiquid securities (which include participation interests); and (2) Rule 144A securities. Going forward, the Fund wishes to change this representation to state that, as an investment restriction of the Fund, the Fund may not hold more than 15% of its net assets in illiquid assets (calculated at the time of investment),[9] including Rule 144A securities deemed illiquid by the Sub-Adviser, consistent with Commission guidance.[10] The Exchange notes that the Commission has approved similar representations relating to issues of Managed Fund Shares proposed to be listed and traded on the Exchange.[11] The Sub-Adviser represents that the Sub-Adviser and the Trust's Board of Trustees will continue to evaluate each Rule 144A security based on the Fund's valuation procedures to oversee liquidity and valuation concerns.

Third, the Prior Release stated that the Fund may also invest in structured notes.[12] Going forward, the Fund proposes that the Fund may invest up to 20% of its total assets in structured notes. The Exchange notes that the Commission has previously approved listing and trading on the Exchange of issues of Managed Fund Shares that may hold up to 20% of total assets in structured notes.[13]

Fourth, the Prior Release stated the Fund may invest without limitation in debt securities denominated in foreign

[4] *See* Securities Exchange Act Release No. 68030 (October 10, 2012), 77 FR 63380 (October 16, 2012) (SR–NYSEArca–2012–88) (''Prior Order''). *See also* Securities Exchange Act Release No. 67715 (August 22, 2012), 77 FR 52083 (August 28, 2012) (''Prior Notice'', and together with the Prior Order, the ''Prior Release'').

[5] The Trust is registered under the Investment Company Act of 1940 (''1940 Act''). On March 30, 2015, the Trust filed with the Commission an amendment to its registration statement on Form N–1A under the Securities Act of 1933 (''Securities Act'') and the1940 Act relating to the Fund (File Nos. 333–148826 and 811–22175) (''Registration Statement''). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement.

[6] The changes described herein will be effective upon filing with the Commission of another amendment to the Trust's Registration Statement and/or a supplement to the Fund's prospectus and/ or Statement of Additional Information. *See* note 5, *supra.* The Sub-Adviser represents that the Sub-Adviser will not implement the changes described herein until the instant proposed rule change is operative.

[7] This limitation does not apply to securities issued or guaranteed by federal agencies and/or U.S. government sponsored instrumentalities, such as the Government National Mortgage Administration (''GNMA''), the Federal Housing Administration (''FHA''), the Federal National Mortgage Association (''FNMA''), and the Federal Home Loan Mortgage Corporation (''FHLMC'').

[8] As described in the Prior Release, the MBS in which the Fund may invest are either pass-through securities or collateralized mortgage obligations (''CMOs'').

[9] In reaching liquidity decisions, the Sub-Adviser may consider the following factors: the frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace trades (*e.g.,* the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer).

[10] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. *See also,* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the 1933 Act).

[11] *See, e.g.,* Securities Exchange Act Release No. 70282 (August 29, 2013), 78 FR 54700 (September 5, 2013) (SR–NYSEArca–2013–70) (order approving listing and trading on the exchange of First Trust Inflation Managed Fund).

[12] As noted in the Prior Release, structured notes are notes on which the amount of principal repayment and interest payments are based on the movement of one or more specified factors, such as the movement of a particular bond or bond index.

[13] *See, e.g.,* Securities Exchange Act Release No. 74093 (January 20, 2015), 80 FR 4015 (January 26, 2015) (SR–NYSEArca–2014–126) (order approving listing and trading of Shares of the AdvisorShares Pacific Asset Enhanced Floating Rate ETF under NYSE Arca Equities Rule 8.600).

currencies and in U.S. dollar-denominated debt securities of foreign issuers, including securities of issuers located in emerging markets. Going forward, the Fund wishes to change this representation to state that the debt securities in which the Fund may invest may be denominated in foreign currencies or U.S. dollars.

The Sub-Adviser represents that there is no change to the Fund's investment objective. The Fund will continue to comply with all initial and continued listing requirements under NYSE Arca Equities Rule 8.600.

Except for the changes noted above, all other facts presented (except the statement ''[t]he Fund will be managed by WisdomTree Asset Management, Inc.'', given that ALPS Advisors, Inc. currently serves as the Fund's investment adviser) and representations made in the Prior Release remain unchanged.

All terms referenced but not defined herein are defined in the Prior Release.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[14] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will continue to be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.600. The Sub-Adviser represents that increasing the Fund's flexibility to invest in Private MBS/ABS would allow the Sub-Adviser to better achieve the Fund's investment objective. In addition, the liquidity of Private MBS/ABS will be a substantial factor in the Fund's security selection process. The Fund's proposed limitation on investments in structured notes to up to 20% of its total assets is comparable to the limitation for investments in structured notes previously approved by the Commission for other issues of Managed Fund Shares.[15] The Exchange believes that the proposed changes are consistent with the representation in the Prior Release that the operation of the Fund as described in the Prior Release is designed to prevent fraudulent and manipulative acts and practices. The proposed expansion of permitted investments would provide the Fund with an enhanced ability to identify debt issues that have sound investment characteristics while providing the potential for an increased yield for investors. The Fund will continue to comply with all initial and continued listing requirements under NYSE Arca Equities Rule 8.600.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Sub-Adviser represents that there is no change to the Fund's investment objective. As noted above, the liquidity of Private MBS/ABS will be a substantial factor in the Fund's security selection process. The Sub-Adviser also represents that the purpose of this change is to provide additional flexibility to the Sub-Adviser to meet the Fund's investment objective by potentially expanding the percentage of the Fund's assets that may be allocated to Private MBS/ABS that would provide the Fund with an enhanced ability to identify debt issues that have sound investment characteristics while providing the potential for an increased yield for investors.

With respect to the 15% limitation on investments in illiquid assets, the Exchange notes that the Commission has approved similar representations relating to issues of Managed Fund Shares proposed to be listed and traded on the Exchange.[16] The Sub-Adviser represents that the Sub-Adviser and the Trust's Board of Trustees will continue to evaluate each Rule 144A security based on the Fund's valuation procedures to oversee liquidity and valuation concerns.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that the Fund will continue to comply with all initial and continued listing requirements under NYSE Arca Equities Rule 8.600. Except for the changes noted above, all other representations made in the Rule 19b–4 filing underlying the Prior Release remain unchanged.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed rule change regarding investments in asset-backed and/or mortgage-backed debt securities is consistent with other similar actively managed fixed income funds which the Commission has approved for listing and trading[17] and will promote competition among actively managed funds utilizing such investments, to the benefit of the investing public.

*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; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[18] and Rule 19b–4(f)(6) thereunder.[19]

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) of the Act[20] 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

[14] 15 U.S.C. 78f(b)(5).

[15] *See* note 13, *supra.*

[16] *See* note 11, *supra.*

[17] *See, e.g.*, Securities Exchange Act Release No. 75566 (July 30, 2015), 80 FR 46612 (August 5, 2015) (SR–NYSEArca–2015–42) (order approving listing and trading of shares of the Newfleet Multi-Sector Unconstrained Bond ETF under NYSE Arca Equities Rule 8.600).

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with 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.

[20] 15 U.S.C. 78s(b)(2)(B).

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–2015–111 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–NYSEArca–2015–111. 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 Web site (*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 Web site viewing and printing in the Commission's Public Reference Section, 100 F Street NE., Washington, DC 20549 on official business days between 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2015–111 and should be submitted on or before December 8, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–29232 Filed 11–16–15; 8:45 am]

**BILLING CODE 8011–01–P**

[21] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–76405; File No. SR–MIAX–2015–63]**

## Self-Regulatory Organizations: Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Delete Exchange Rule 610, Limitations on Dealings

November 10, 2015.

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 4, 2015, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to adopt a principles-based approach to prohibit the misuse of material, non-public information by Exchange Market Makers[3] by deleting Exchange Rule 610, Limitations on Dealings.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing,* at MIAX's principal office, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to adopt a principles-based approach to prohibit the misuse of material, non-public information by Market Makers by deleting Rule 610 (Limitations on Dealings). In so doing, the Exchange would harmonize its rules amongst its Members[4] relating to protecting against the misuse of material, non-public information. The Exchange believes that Rule 610 is no longer necessary because all Members, including Market Makers, are subject to the Exchange's general principles-based requirements governing the protection against the misuse of material, non-public information, pursuant to Exchange Rule 303 (Prevention of the Misuse of Material Nonpublic Information), which obviates the need for separately-prescribed requirements for a subset of market participants on the Exchange.

Background

The Exchange has three classes of registered Market Makers. Pursuant to Rule 600, a Market Maker is a Member with Registered Options Traders that is registered with the Exchange for the purpose of making transactions as a dealer-specialist. As the rule further provides, a Market Maker can be either a RMM, a LMM or a PLMM. All Market Makers are subject to the requirements of Rules 603 and 604, which set forth the obligations of Market Makers, particularly relating to quoting.

Rule 603 specifies the obligations of Market Makers, which include making markets ''that, absent changed market conditions, will be honored for the number of contracts entered into the Exchange's System in all series of options classes to which the Market Maker is appointed.'' The quoting obligations of Market Makers are set forth in Rule 604. Rules 603 and 604

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''Market Makers'' refers to ''Lead Market Makers,'' ''Primary Lead Market Makers'' and ''Registered Market Makers'' collectively. A Lead Market Maker (''LMM'') is a Member registered with the Exchange for the purpose of making markets in securities traded on the Exchange and that is vested with the rights and responsibilities specified in Chapter VI of the Exchange Rules with respect to Lead Market Makers. A Primary Lead Market Maker (''PLMM'') is a Lead Market Maker appointed by the Exchange to act as the Primary Lead Market Maker for the purpose of making markets in securities traded on the Exchange. A Registered Market Maker (''RMM'') is a Member registered with the Exchange for the purpose of making markets in securities traded on the Exchange, who is not a Lead Market Maker. *See* Exchange Rule 100.

[4] The term ''Member'' means an individual or organization approved to exercise trading rights associated with a Trading Permit. Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

describe the heightened obligations of a PLMM as distinguished from other Market Makers. Importantly, all Market Makers have access to the same information in the order book that is available to all other market participants. Moreover, none of the Exchange's Market Makers have agency obligations to the Exchange's order book.

Notwithstanding that Market Makers have access to the same Exchange trading information as all other market participants on the Exchange, the Exchange has specific rules governing how Market Makers may operate. Rule 610(a) provides that ''[n]o Member, other than a Market Maker acting pursuant to Rule 603, limited partner, officer, employee, approved person(s), who is affiliated with a Market Maker or Member, shall, during the period of such affiliation, purchase or sell any option in which such Market Maker is appointed for any account in which such person(s) has a direct or indirect interest.'' Rule 610(b) further provides that an approved person or Member affiliated with a Member is not subject to the restrictions in Rule 610(a) if the affiliated Market Maker implements detailed Exchange-approved procedures to restrict the flow of material, non-public information to such affiliated party. The Exemption Guidelines set forth in Rule 610(e) through (j) outline the organizational structure of the so-called ''Chinese Wall'' procedures which are also referred to as an ''Information Barrier'', which a Market Maker must implement to be exempt from the requirements of Rule 610(a). The Information Barrier is meant to ensure that an affiliate of a Market Maker will not have access to material, non-public information and that a Market Maker will not misuse material, non-public information obtained from an affiliated Member.

Proposed Rule Change

The Exchange believes that the Exemption Guidelines in Rule 610 for Market Makers are no longer necessary and proposes to delete the Rule. Rather, the Exchange believes that Rule 303 governing the misuse of material, non-public information provides for an appropriate, principles-based approach to prevent the market abuses Rule 610 is designed to address. Specifically Rule 303 requires every Member to establish, maintain and enforce written procedures reasonably designed, taking into consideration the nature of such Member's business, to prevent the misuse of material, non-public information by such Member or persons associated with such Member. For purposes of this requirement, the misuse of material, non-public information includes, but is not limited to, the following:

(a) Trading in any securities issued by a corporation, or in any related securities or related options or other derivative securities, while in possession of material, non-public information concerning that issuer; or

(b) Trading in a security or related options or other derivative securities, while in possession of material non-public information concerning imminent transactions in the security or related securities; or

(c) Disclosing to another person or entity any material, non-public information involving a corporation whose shares are publicly traded or an imminent transaction in an underlying security or related securities for the purpose of facilitating the possible misuse of such material, non-public information.[5]

Because Market Makers are already subject to the requirements of Rule 303 and because Market Makers do not have any trading or information advantage over other Members, the Exchange does not believe that it is necessary to separately require specific limitations on dealings between Market Makers and their affiliates. Deleting Rule 610 would provide Market Makers and Members with the flexibility to adapt their policies and procedures as reasonably designed to reflect changes to their business model, business activities, or the securities market in a manner similar to how Members on the Exchange currently operate and consistent with Rule 303.

As noted above, PLMMs are distinguished under Exchange rules from other Market Makers only to the extent that PLMMs have heightened obligations. However, none of these heightened obligations provides different or greater access to non-public information than any other market participant on the Exchange.[6] Specifically, Market Makers on the Exchange do not have access to trading information provided by the Exchange, either at, or prior to, the point of execution, that is not made available to all other market participants on the Exchange in a similar manner. Further, as noted above, Market Makers on the Exchange do not have any agency responsibilities for orders on the order book. Accordingly, because Market Makers do not have any trading advantages at the Exchange due to their market role, the Exchange believes that they should be subject to the same rules as Members regarding the protection against the misuse of material, non-public information, which in this case, is existing Rule 303.

The Exchange notes that even with this proposed rule change, pursuant to Rule 303, a Market Maker would still be obligated to ensure that its policies and procedures reflect the current state of its business and continue to be reasonably designed to achieve compliance with applicable federal securities law and regulations, and with applicable Exchange rules, including being reasonably designed to protect against the misuse of material, non-public information. While an Information Barrier would not specifically be required under the proposal, Rule 303 already requires that a Member consider its business model or business activities in structuring its policies and procedures, which may dictate that an information barrier or other type of functional separation be part of the set of policies and procedures that would be reasonably designed to achieve compliance with applicable securities law and regulations, and with applicable Exchange rules.

The Exchange is not proposing to change what is considered to be material, non-public information, and thus does not expect there to be any changes to the types of information that an affiliated person of a Market Maker could share with such Market Maker. In that regard, the proposed rule change will not permit an Electronic Exchange Member to have access to any non-public order or quote information of the affiliated Market Maker, including hidden or undisplayed size or price information of such orders and quotes. Market Makers are not allowed to post hidden or undisplayed orders and quotes on the Exchange. Members do not expect to receive any additional order or quote information as a result of this proposed rule change.

Further, the Exchange does not believe that there will be any material change to existing Member Information Barriers as a result of removal of the Exchange's pre-approval requirements. In fact, the Exchange anticipates that eliminating the pre-approval requirement should facilitate implementation of changes to Member Information Barriers as necessary to protect against the misuse of material, non-public information. The Exchange also suggests that the pre-approval requirement is unnecessary because Market Makers now do not have agency responsibilities to the book, or time and place information advantages because of

[5] *See* Exchange Rule 303, Interpretations and Policies .01.

[6] *See* Exchange Rules 603 and 604.

their market role.[7] Moreover, the policies and procedures of Market Makers, including those relating to Information Barriers, would be subject to review by FINRA, on behalf of the Exchange, pursuant to a Regulatory Services Agreement.

The Exchange further notes that under Rule 303, a Member would be able to structure its firm to provide for its options Market Makers, as applicable, to be structured with its equities and customer-facing businesses, provided that any such structuring would be done in a manner reasonably designed to protect against the misuse of material, non-public information. For example, pursuant to Rule 303 a Market Maker on the Exchange could be in the same independent trading unit, as defined in Rule 200(f) of Regulation SHO,[8] as an equities market maker and other trading desks within the firm, including options trading desks, so that the firm could share post-trade information to better manage its risk across related securities. The Exchange believes it is appropriate, and consistent with Rule 303 and Section 15(g) of the Act[9] for a firm to share options position and related hedging position information (*e.g.,* equities, futures, and foreign currency) within a firm to better manage risk on a firm-wide basis. The Exchange notes, however, that if so structured, a firm would need to have policies and procedures, including Information Barriers as applicable, reasonably designed to protect against the misuse of material, non-public information, and specifically customer information, consistent with Rule 303.

The Exchange believes that the proposed reliance on the principles-based Rule 303 would ensure that a Member that operates a Market Maker would be required to protect against the misuse of any material, non-public information. As noted above, Rule 303 already requires that firms refrain from trading while in possession of material, non-public information concerning imminent transactions in the security or related product. The Exchange believes that moving to a principles-based approach rather than prescribing how and when to wall off a Market Maker from the rest of the firm would provide Members operating as Market Makers with appropriate tools to better manage risk across a firm, including integrating options positions with other positions of the firm or, as applicable, by the respective independent trading unit. Specifically, the Exchange believes that it is appropriate for risk management purposes for a Member operating a Market Maker to be able to consider both options Market Maker traded positions for purposes of calculating net positions consistent with Rule 200 of Regulation SHO, calculating intra-day net capital positions, and managing risk generally, and in compliance with Rule 15c3–5 under the Act (the ''Market Access Rule'').[10] The Exchange notes that any risk management operations would need to operate consistent with the requirement to protect against the misuse of material, non-public information.

The Exchange further notes that if Market Makers are integrated with other market making operations, they would be subject to existing rules that prohibit Members from disadvantaging their customers or other market participants by improperly capitalizing on a member organization's access to the receipt of material, non-public information. As such, a member organization that integrates its market maker operations together with equity market making would need to protect customer information consistent with existing obligations to protect such information. The Exchange has rules prohibiting Members from disadvantaging their customers or other market participants by improperly capitalizing on the Members' access to or receipt of material, nonpublic information. For example, Exchange Rule 1308 (Supervision of Accounts) requires Members to develop and maintain adequate controls over each of its business activities and to be responsible for internal supervision and control of the organization and compliance with securities laws and regulations.[11] Additionally, Rule 301 (Just and Equitable Principles of Trade) prevents a person associated with a Member, who has knowledge of all material terms and conditions of (i) an order and a solicited order, (ii) an order being facilitated, or (iii) orders being crossed; the execution of which are imminent, to enter, based on such knowledge, an order to buy or sell an option for the same underlying security as any option that is the subject of the order, or an order to buy or sell the security underlying such class, or an order to buy or sell any related instrument unless certain circumstances are met.[12]

2. Statutory Basis

MIAX believes that its proposed rule change is consistent with Section 6(b) of the Act[13] in general, and furthers the objectives of Section 6(b)(5) of the Act[14] 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 that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market by adopting a principles-based approach to permit a Member operating a Market Maker to maintain and enforce policies and procedures to, among other things, prohibit the misuse of material, non-public information and eliminate restrictions on how a Member structures its market making operations. The Exchange notes that the proposed rule change is based on an approved rule of the Exchange to which Market Makers are already subject, Rule 303, thus Market Makers would continue to be subject to current Exchange rules and to the requirements under the Act[15] for protecting material, non-public order information. The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market because it would harmonize the Exchange's approach to protecting against the misuse of material, non-public information and no longer subject Market Makers to additional requirements. The Exchange does not believe that the existing requirements applicable to Market Makers are narrowly tailored to their respective roles because neither market participant has access to Exchange trading information in a manner different from any other market participant on the Exchange and they do not have agency responsibilities to the order book.

The Exchange further believes the proposal is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade because existing rules make clear to Market Makers and Members the type of conduct that is prohibited by the Exchange. While the proposal

[7] Member applicants are required to have information barrier policies and procedures in place and must represent that they comply with this requirement in their application for membership to MIAX.

[8] 17 CFR part 242.200(f).

[9] 15 U.S.C. 78o(g).

[10] 17 CFR part 240.15c3–5.

[11] *See* Exchange Rule 1308.

[12] *See* Exchange Rule 301, Interpretations and Policies .02.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] *See, e.g.,* 15 U.S.C. 78o(g).

eliminates specific requirements relating to the misuse of material, non-public information requiring pre-approval by the Exchange, Market Makers and Members would remain subject to existing Exchange rules requiring them to establish and maintain systems to supervise their activities, and to create, implement, and maintain written procedures that are reasonably designed to comply with applicable securities laws and Exchange rules, including the prohibition on the misuse of material, non-public information.

The Exchange notes that the proposed rule change would still require that Members operating Market Makers maintain and enforce policies and procedures reasonably designed to ensure compliance with applicable federal securities laws and regulations and with Exchange rules. Even though there would no longer be pre-approval of Market Maker Information Barriers, any Market Maker's written policies and procedures would continue to be subject to oversight by the Exchange and therefore the elimination of prescribed restrictions should not reduce the effectiveness of the Exchange rules to protect against the misuse of material, non-public information. Rather, Members will be able to utilize a flexible, principles-based approach to modify their policies and procedures as appropriate to reflect changes to their business model, business activities, or to the securities market itself. Moreover, while specified Information Barriers may no longer be required, a Member's business model or business activities may dictate that an Information Barrier or functional separation be part of the set of policies and procedures that would be reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable Exchange rules. The Exchange therefore believes that the proposed rule change will maintain the existing protection of investors and the public interest that is currently applicable to Market Makers, while at the same time removing impediments to and perfecting a free and open market by moving to a principles-based approach to protect against the misuse of material non-public information.

*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. On the contrary, the Exchange believes that the proposal will enhance competition by allowing Market Makers to comply with applicable Exchange rules in a manner best suited to their business models, business activities, and the securities markets, thus reducing regulatory burdens while still ensuring compliance with applicable securities laws and regulations and Exchange rules. The Exchange believes that the proposal will foster a fair and orderly marketplace without being overly burdensome upon Market Makers.

Moreover, the Exchange believes that the proposed rule change would eliminate a burden on competition for Members which currently exists as a result of disparate rule treatment between the options and equities markets regarding how to protect against the misuse of material, non-public information. For those Members that are also members of equity exchanges, their respective equity market maker operations are now subject to a principles-based approach to protecting against the misuse of material non-public information.[16] The Exchange believes it would remove a burden on competition to enable Members to similarly apply a principles-based approach to protecting against the misuse of material, non-public information in the options space. To this end, the Exchange notes that Rule 303 still requires a Member that operates as a Market Maker on the Exchange to evaluate its business to assure that its policies and procedures are reasonably designed to protect against the misuse of material, non-public information. However, with this proposed rule change, a Member that trades equities and options could look at its firm more holistically to structure its operations in a manner that provides it with better tools to manage its risks across multiple security classes, while at the same time protecting against the misuse of material non-public information.

[16] *See* Securities Exchange Act Release Nos. 60604 (Sept. 2, 2009), 76 FR 46272 (Sept. 8, 2009) (SR–NYSEArca–2009–78) (Order approving elimination of NYSE Arca rule that required market makers to establish and maintain specifically prescribed information barriers, including discussion of NYSE Arca and Nasdaq rules) (''Arca Approval Order''); 61574 (Feb. 23, 2010), 75 FR 9455 (Mar. 2, 2010) (SR–BATS–2010–003) (Order approving amendments to BATS Rule 5.5 to move to a principles-based approach to protecting against the misuse of material, non-public information, and noting that the proposed change is consistent with the approaches of NYSE Arca and Nasdaq) (''BATS Approval Order''); and 72534 (July 3, 2014), 79 FR 39440 (July 10, 2014) (SR–NYSE–2014–12) (Order approving amendments to NYSE Rule 98 governing designated market makers to move to a principles-based approach to prohibit the misuse of material nonpublic information) (''NYSE Approval Order'').

*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 after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act[17] and Rule 19b–4(f)(6)[18] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email *to rule-comments@sec.gov.* Please include File Number SR–MIAX–2015–63 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–MIAX–2015–63. This file

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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 Web site (*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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549–1090, on official business days between the hours of 10:00 a.m. and 3:00 p.m. 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–MIAX–2015–63 and should be submitted on or before December 8, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–29218 Filed 11–16–15; 8:45 am]

**BILLING CODE 8011–01–P**

[19] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–76410; File No. SR–NASDAQ–2015–138]**

## Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish the Securities Trader and Securities Trader Principal Registration Categories and To Retire Other Registration Categories

November 10, 2015.

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 4, 2015, The NASDAQ Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to a proposal [sic] to retire the Limited Representative—Equity Trader, Limited Representative—Proprietary Trader and Limited Principal—Proprietary Trader registration categories and to establish the Securities Trader and Securities Trader Principal registration categories. The Exchange is also amending its rules to establish the Series 57 examination as the appropriate qualification examination for Securities Traders and deleting the rule referring to the S501 continuing education program currently applicable to Proprietary Traders.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange is proposing herein to replace the Series 56 with the Series 57 examination, and to make additional changes to its registration rules. Specifically, in response to the FINRA Amendments (defined below), the Exchange is proposing to retire the Limited Representative—Equity Trader ("Equity Trader")[3] and the Limited Representative—Proprietary Trader ("Proprietary Trader")[4] registration categories from its own registration rules relating to securities trading activity. It is also therefore retiring its Limited Principal—Proprietary Trader ("Proprietary Trader Principal")[5] registration category. To take the place of the retired registration categories, Nasdaq is establishing new Securities Trader and Securities Trader Principal registration categories. This filing is, in all material respects, based upon SR–FINRA–2015–017, which was recently approved by the Commission.[6]

New Nasdaq Securities Trader Registration Category

Currently, under Nasdaq Rule 1032(a)(1), each person associated with a member who is included within the definition of a "representative"[7] in Rule 1011 is required to register with Nasdaq as a General Securities Representative and to pass an appropriate qualification examination before such registration may become effective, unless his or her activities are so limited as to qualify him for one or more limited categories of representative registration also set forth in Rule 1032. The appropriate qualification examination for General Securities Representative is the Series 7 examination.

Nasdaq Rule 1032(f) currently also requires each person associated with a member who is included within the definition of a representative to register with Nasdaq as an Equity Trader if, with respect to transactions in equity, preferred or convertible debt securities on Nasdaq, such person is engaged in proprietary trading, the execution of transactions on an agency basis, or the direct supervision of such activities (collectively, "Nasdaq equities trading"), other than any person associated with (A) a member whose trading activities are conducted principally on behalf of an investment company that is registered with the Commission pursuant to the Investment Company Act of 1940 and that controls, is controlled by or is under common control, with the member (an "investment company firm"), or (B) a proprietary trading firm. Therefore,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Rule 1032(f).

[4] Rule 1032(c).

[5] Rule 1022(h).

[6] *See* Securities Exchange Act Release No. 75783 (August 28, 2015), 80 FR 53369 (September 3, 2015) (approving SR–FINRA–2015–017) referred to herein as the "FINRA Amendments". According to the release, FINRA's expected effective date for the FINRA Amendments is January 4, 2016.

[7] The term "representative" is defined in Exchange Rule 1011.

under current Nasdaq rules, a representative engaged in Nasdaq equities trading who is not associated with a proprietary trading firm or an investment company firm *must* register as an Equity Trader, after passing the appropriate qualification examination (the Series 55 examination). Additionally, before such registration may become effective, the individual must be registered either as a General Securities Representative (after passing the Series 7 examination) or as a Limited Representative—Corporate Securities Representative (after passing the Series 62 examination).

Additionally, Nasdaq Rule 1032(c) currently provides that each person associated with a member who is included within the definition of a representative may register with Nasdaq as a Proprietary Trader if (A) his activities in the investment banking or securities business are limited solely to proprietary trading, (B) he passes an appropriate qualification examination (the Series 56) and (C) he is an associated person of a proprietary trading firm.[8] Therefore, pursuant to Nasdaq Rules 1032(a) and (c), a representative associated with a proprietary trading firm who limits his trading activity to proprietary trading as specified in Rule 1032(c) has the opportunity to register in the Proprietary Trader category after passing the Series 56 examination rather than as a General Securities Representative after passing the Series 7 examination.

In consultation with FINRA and other exchanges, and in order to harmonize for individuals engaged in trading activities, the Exchange is now proposing to retire the Proprietary Trader registration category. Accordingly, it is deleting all rule text in section (c) of Rule 1032 and replacing it with the word ''Reserved''. Similarly, the Exchange is retiring the Equity Trader registration category in Rule 1032(f) and revising that rule to adopt a new Securities Trader registration category.

Under Rule 1032(f), as revised, each person associated with a member who is included within the definition of a representative will be required to register as a Securities Trader if engaged in Nasdaq equities trading or foreign currency options trading on Nasdaq other than any person associated with an investment company firm. There is no exclusion from the new Securities Trader registration requirement for representatives of proprietary trading firms. Therefore, representatives who previously would have been required to register as Equity Traders, as well as those who previously qualified for Proprietary Trader registration, will be required to register as Securities Traders. In order to register as a Securities Trader, an applicant would be required to pass the new Securities Trader qualification examination (Series 57). However, unlike today's Equity Trader registrants, an applicant would be able to register as a Securities Trader without first registering as a General Securities Representative or a Limited Representative—Corporate Securities.[9] New Nasdaq Rule 1032(f)(3) will prohibit a person registered as a Securities Trader from functioning in any other registration category, unless he or she is also qualified and registered in such other registration category.[10]

A person registered as an Equity Trader or a Proprietary Trader in the Central Registration Depository (CRD®) system on the effective date of the proposed rule change will be grandfathered as a Securities Trader without having to take any additional examinations and without having to take any other actions. In addition, individuals who were registered as an Equity Trader or a Proprietary Trader in the CRD system prior to the effective date of the proposed rule change will be eligible to register as Securities Traders without having to take any additional examinations, provided that no more than two years have passed between the date they were last registered as a representative and the date they register as a Securities Trader.

Persons registered in the new category would be subject to the continuing education requirements of Rule 1120. The Exchange proposes to amend Rule 1120(a) by removing the option for Series 56 registered persons to participate in the S501 Series 56 Proprietary Trader continuing education program in order to satisfy the Regulatory Element. The S501 Series 56 Proprietary Trader continuing education program is being phased out along with the Series 56 Proprietary Trader qualification examination. As a result, effective January 4, 2016, the S501 Series 56 Proprietary Trader continuing education program for Series 56 registered persons will cease to exist. In place of the S501 Series 56 Proprietary Trader continuing education program for Series 56 registered persons, the Exchange proposes that Series 57 registered persons be required to take the S101 General Program for Series 7 and all other registered persons.

## II. New NASDAQ Securities Trader Principal Registration Category

Currently, under NASDAQ Rule 1022(a), each person associated with a member who is included within the definition of ''principal'' [11] and each person designated as a Chief Compliance Officer on Schedule A of Form BD must register with Nasdaq as a General Securities Principal and pass an appropriate qualification examination before such registration may become effective, unless such person's activities are so limited as to qualify such person for one or more of the limited categories of principal registration specified in Rule 1022.[12] Currently, under Nasdaq Rule 1032(f)(1), an associated person with direct supervisory responsibility over the securities trading activities set forth in Nasdaq Rule 1032(f) is required to qualify and register as an Equity Trader. However, Nasdaq rules do not expressly require such persons to register in a specific principal registration category.[13] Under Rule 1022(h) a principal may register under the Proprietary Trader Principal category if, among other things, he or she is registered as a Proprietary Trader and passes the Series 24 examination.

Like the Proprietary Trader category discussed above, the Proprietary Trader Principal registration category is being retired. The Exchange is therefore deleting Rule 1022(h). The Exchange is establishing a Securities Trader Principal category in new Rule 1022(a)(5). Nasdaq has been working with other exchanges and FINRA to develop this new principal registration

[8] The term ''proprietary trading firm'' is defined in Rule 1011(o).

[9] FINRA has stated in its filing proposing the FINRA amendments that the Series 57 examination will include the core knowledge portion of the General Securities Representative examination (Series 7).

[10] For instance, a person registered as a Securities Trader will not be able to engage in any retail or institutional sales activities, unless he or she is qualified and registered in the appropriate registration category, such as a General Securities Representative. *See* NASDAQ Rule 1032(a) which requires each representative associated with a member to register with Nasdaq as a General Securities Representative unless his or her activities are so limited as to qualify him for one or more of the limited categories of representative registration specified in Rule 1032. Like the Proprietary Trader category that is being retired (but unlike the Equity Trader category which is also being retired) the Securities Trader registration category is a limited category of representative registration.

[11] ''Principal'' is defined in Rule 1021.

[12] Rule 1022 lists the categories of principal registration. In addition to ''General Securities Principal,'' which is the broadest category, there are a number of limited categories of principal registration including Financial and Operations, General Securities Sales Supervisor, and Limited Principal—Proprietary Trader.

[13] In general, a General Securities Principal with supervisory responsibility over securities trading activities is currently required to qualify and register as an Equity Trader.

category and believes that it is an appropriate corollary to the new Securities Trader representative registration category. The new rule requires each principal who will have supervisory responsibility over the securities trading activities described in Rule 1032(f)(1) to become qualified and registered as a Securities Trader Principal. To qualify for registration as a Securities Trader Principal, an applicant must become qualified and registered as a Securities Trader under Rule 1032(f) and pass the General Securities Principal qualification examination (Series 24). A person who is qualified and registered as a Securities Trader Principal would only be permitted to have supervisory responsibility over the activities specified in Rule 1032(f)(1), unless such person were separately qualified and registered in another appropriate principal registration category, such as the General Securities Principal registration category. A person who registers as a General Securities Principal would not be qualified to supervise the trading activities described in Rule 1032(f)(1), unless such person also qualified and registered as a Securities Trader under Rule 1032(f) by passing the Securities Trader qualification examination, and became registered as a Securities Trader Principal. This aspect of the proposed rule change will also allow Nasdaq to more easily track principals with supervisory responsibility over securities trading activities.

A person registered as a General Securities Principal and an Equity Trader or as a Proprietary Trader Principal in the CRD system on the effective date of the proposed rule change will be eligible to register as a Securities Trader Principal without having to take any additional examinations. An individual who was registered as a General Securities Principal and an Equity Trader, or as a Proprietary Trader Principal in the CRD system prior to the effective date of the proposed rule change will also be eligible to register as a Securities Trader Principal without having to take any additional examinations, provided that no more than two years have passed between the date they [sic] were last registered as a principal and the date they [sic] register as a Securities Trader Principal. Members, however, will be required to affirmatively register persons transitioning to the proposed registration category as Securities Trader Principals on or after the effective date of the proposed rule change.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [14] in general, and furthers the objectives of Section 6(b)(5) of the Act [15] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The Exchange believes that the requirements of the Securities Trader and Securities Trader Principal registration categories, as well as the new Securities Trader qualification examination, should help ensure that proprietary traders and the principals who supervise proprietary traders and proprietary trading are, and will continue to be, properly trained and qualified to perform their functions which should protect investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Implementation of the proposed changes to Nasdaq's registration rules in coordination with the FINRA Amendments does not present any competitive issues, but rather is designed to provide less burdensome and more efficient regulatory compliance for members and enhance the ability of the Exchange to fairly and efficiently regulate members, which will further enhance competition. Additionally, the proposed rule change should not affect intramarket competition because all similarly situated representatives and principals will be required to complete the same qualification examinations and maintain the same registrations.

*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 [16] and subparagraph (f)(6) of Rule 19b–4 thereunder.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov. Please include File Number SR–NASDAQ–2015–138 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–NASDAQ–2015–138.* 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 Web site (*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

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78s(b)(3)(a)(iii).

[17] 17 CFR 240.19b–4(f)(6). 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.

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 Web site 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number *SR–NASDAQ–2015–138* and should be submitted on or before December 8, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–29230 Filed 11–16–15; 8:45 am]

**BILLING CODE 8011–01–P**

[18] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–76402; File No. SR–NYSEARCA–2015–103]**

## Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Making Certain Representations Relating to the NYSE Best Quote & Trades Data Feed

November 10, 2015.

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 October 29, 2015, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to make certain representations relating to the NYSE Best Quote & Trades (NYSE BQT) data feed. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The NYSE Best Quotes and Trades (''NYSE BQT'') data feed, a market data product offered by the New York Stock Exchange LLC (''NYSE''), provides best bid and offer (''BBO'') and last sale information for the Exchange and its affiliates, NYSE and NYSE MKT LLC (''NYSE MKT'').[4] Specifically, the NYSE BQT data feed consists of certain data elements from six market data feeds—NYSE Trades, NYSE BBO, NYSE Arca Trades, NYSE Arca BBO, NYSE MKT Trades, and NYSE MKT BBO.[5]

While NYSE Arca, NYSE and NYSE MKT are the exclusive distributors of their BBO and Trades feeds from which the data elements are taken to create the NYSE BQT data feed, the NYSE represented that it would not have any unfair advantage over competing vendors with respect to obtaining data from NYSE, NYSE Arca and NYSE MKT.[6] The NYSE represented that it would not be the exclusive distributor of the aggregated and consolidated information that comprises the NYSE BQT data feed and that it designed the NYSE BQT data feed so that it would not have a competitive advantage over a competing vendor with respect to the speed of access to those six underlying data feeds. In recognition that NYSE Arca is the source of its own market data, NYSE Arca represents that it will continue to make available the individual underlying feeds, NYSE Arca Trades and NYSE Arca BBO, and that the source for these feeds for use by NYSE to create the NYSE BQT data feed is the same as the source available to other vendors.[7]

The Exchange notes that the proposed change is not otherwise intended to address any other issues, and the Exchange is not aware of any problems that member organizations or others would have in complying with the proposed rule change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)[8] of the Act, in general, and furthers the objectives of Section 6(b)(5)[9] of the Act, 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 mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, and it is not designed to permit unfair discrimination among customers, brokers, or dealers. This proposal is in keeping with those principles in that it promotes increased transparency through the dissemination

[4] *See* Securities Exchange Act Release No. 34–73553 (Nov. 6, 2014), 79 FR 67491 (Nov. 13, 2014) (SR–NYSE–2014–40) (''NYSE BQT Approval Order'').

[5] These data feeds are offered pursuant to preexisting and effective rules and fees filed with the Securities and Exchange Commission (''Commission''). This filing does not affect those rules or the fees associated with these underlying data feeds or the ability for the NYSE Arca, the NYSE or NYSE MKT to amend the data feeds or fees associated with those data feeds pursuant to separate rule filings. For NYSE Arca Trades, *see* Securities Exchange Act Release Nos. 59289 (Jan. 23, 2009), 74 FR 5711 (Jan. 30, 2009) (SR–NYSEArca–2009–06) and 59598 (Mar. 18, 2009), 74 FR 12919 (Mar. 25, 2009) (SR–NYSEArca–2009–05). For NYSE Arca BBO, *see* Securities Exchange Act Release No. 62188 (May 27, 2010), 75 FR 31484 (June 3, 2010) (SR–NYSEArca–2010–23). For NYSE Trades, *see* Securities Exchange Act Release Nos. 59290 (Jan. 23, 2009), 74 FR 5707 (Jan. 30, 2009) (SR–NYSE–2009–05) and 59606 (Mar. 19, 2009), 74 FR 13293 (Mar. 26, 2009) (SR–NYSE–2009–04). For NYSE BBO, *see* Securities Exchange Act Release No. 62181 (May 26, 2010), 75 FR 31488 (June 3, 2010) (SR–NYSE–2010–30). For NYSE MKT Trades and NYSE MKT BBO, *see* Securities Exchange Act Release No. 62187 (May 27, 2010), 75 FR 31500 (June 3, 2010) (SR–NYSEAmex–2010–35).

[6] *See supra* note 4 at 67492.

[7] NYSE MKT is filing a similar proposal regarding the NYSE BQT data feed (SR–NYSEMKT–2015–92).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

of the NYSE BQT data feed to those interested in receiving it.

NYSE Arca is the source of its own market data, including the NYSE Arca market data that the NYSE includes in the NYSE BQT data feed. NYSE Arca represents that it will continue to make available the individual underlying NYSE Arca market data products, NYSE Arca Trades and NYSE Arca BBO, that are included in NYSE BQT, and that the source of the NYSE Arca market data the NYSE uses to create the NYSE BQT data feed is the same as the source available to other vendors. Thus, a vendor creating a product to compete with NYSE BQT could also obtain the six underlying data feeds in NYSE BQT and perform a similar aggregation and consolidation function to create the same data product with the same latency.

The NYSE BQT data feed helps to protect a free and open market by providing vendors and subscribers with additional choices in receiving this type of market data, thus promoting competition and innovation.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,[10] 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. As noted above, the NYSE BQT data feed represents aggregated and consolidated information of six existing market data feeds. Although NYSE Arca, the NYSE and NYSE MKT are the exclusive distributors of the six BBO and Trades feeds from which certain data elements are taken to create the NYSE BQT data feed, the NYSE may not be the exclusive distributor of the aggregated and consolidated information that comprises the NYSE BQT data feed. Any other market data recipient of the six BBO and Trades feeds would be able, if they chose, to create a data feed with the same information as the NYSE BQT data feed and distribute it to their clients on a level-playing field with respect to latency and cost as compared to the NYSE's product.[11]

*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.

[10] 78 U.S.C. 78f(b)(8).

[11] *See* NYSE BQT Approval Order, *supra* note 4.

**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[12] and Rule 19b–4(f)(6) thereunder.[13] 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.

A proposed rule change filed under Rule 19b–4(f)(6)[14] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. The Exchange notes that the NYSE BQT data feed has been the subject of prior rule filings and believes that waiver of the 30-day operative delay will provide more transparency and consistency with respect to the description of the NYSE BQT data feed. Based on the foregoing, the Commission believes that the waiver of the operative delay is appropriate and is consistent with the protection of investors and the public interest.[15] The Commission hereby grants the waiver and designates the proposal operative upon filing.

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)[16] of the Act to determine whether the proposed rule change should be approved or disapproved.

[12] 15 U.S.C. 78s(b)(3)(A)(iii).

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6).

[15] 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).

[16] 15 U.S.C. 78s(b)(2)(B).

**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–2015–103 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–NYSEARCA–2015–103. 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 Web site (*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 Web site viewing and printing in the Commission's Public Reference Section, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2015–103 and should be

submitted on or before December 8,2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–29216 Filed 11–16–15; 8:45 am]

BILLING CODE 8011–01–P

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–76411; File No. SR–BATS–2015–98]**

## Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for BZX Options

November 10, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 2, 2015, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') 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 Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. 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 filed a proposal to amend the fee schedule applicable to Members[5] and non-members of the Exchange pursuant to BATS Rules 15.1(a) and (c).

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.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 parts of such statements.

*(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to modify its fee schedule applicable to the Exchange's options platform effective immediately, in order to: (i) Make certain changes, including the adoption of routing fees, in connection with the launch of the options exchange operated by the Exchange's affiliate EDGX Exchange, Inc. (''EDGX Options''); and (ii) to adopt and modify certain pricing tiers offered by the Exchange.

BZX Options References

At the outset, the Exchange proposes to re-brand its options platform as BZX Options, rather than BATS Options, as it intends to use BATS Options to describe EDGX Options and BZX Options collectively. In connection with this change the Exchange proposes to: (i) Re-title the fee schedule; (ii) modify the description of fee code OO, which refers to the Exchange's opening process; (iii) modify references in footnote 5, which applies to the Quoting Incentive Program (''QIP''); (iv) modify references in the Unicast Access section under BATS Connect fees; and (v) modify references in the Options Regulatory Fee section. In each instance the Exchange proposes to refer to BZX Options. With respect to the Unicast Access section, the Exchange also proposes to add reference to EDGX Options in the list of Exchange affiliates to which such fees do not apply.

Routing to EDGX Options

As noted previously, the Exchange's current approach to routing fees is to set forth in a simple manner certain sub-categories of fees that approximate the cost of routing to other options exchanges based on the cost of transaction fees assessed by each venue as well as costs to the Exchange for routing (*i.e.,* clearing fees, connectivity and other infrastructure costs, membership fees, etc.) (collectively, ''Routing Costs''). The Exchange then monitors the fees charged as compared to the costs of its routing services and adjusts its routing fees and/or sub-categories to ensure that the Exchange's fees do indeed result in a rough approximation of overall Routing Costs, and are not significantly higher or lower in any area. The Exchange proposes to adopt routing fees for orders that are routed by the Exchange to EDGX Options consistent with this approach.

The Exchange proposes to adopt fee codes RC and RD, which will apply to Customer[6] orders routed to EDGX Options in Penny Pilot Securities[7] and non-Penny Pilot Securities, respectively. Both fee code RC and fee code RD will yield no charge, as EDGX Options has not proposed to charge a fee for Customer orders.[8] The Exchange also proposes to adopt fee codes RF and RG, which will apply to Non-Customer orders[9] routed to EDGX Options in Penny Pilot Securities and non-Penny Pilot Securities, respectively. The Exchange proposes to charge $0.56 for orders yielding fee code RF and $0.96 per contract for orders yielding fee code RG, which in each case represents the base fee for a Non-Customer order (other than market maker order) executed on EDGX Options plus an additional fee to cover Routing Costs.[10] Although the Exchange does not propose to charge a fee for Customer orders routed to EDGX Options, the Exchange will incur Routing Costs in connection with such routing. The Exchange notes, however, that Customer orders executed on EDGX Options will receive rebates in certain circumstances that the Exchange does not propose to pass back to Members. Accordingly, the Exchange anticipates that the proposed fee structure will approximate the cost of routing Customer orders to EDGX Options. The Exchange also notes that the proposed fees for fee codes RF and RG are higher than the fees charged by EDGX Options for market maker orders sent directly to

[17] 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)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The term ''Member'' is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' *See* Exchange Rule 1.5(n).

[6] ''Customer'' applies to any transaction identified by a Member for clearing in the Customer range at the OCC, excluding any transaction for a Broker Dealer or a ''Professional'' as defined in Exchange Rule 16.1.

[7] ''Penny Pilot Securities'' are those issues quoted pursuant to Exchange Rule 21.5, Interpretation and Policy .01.

[8] *See* SR–EDGX–2015–54 filed October 30, 2015, *available at: http://cdn.batstrading.com/resources/regulation/rule_filings/approved/2015/SR-EDGX-2015-54.pdf.*

[9] The Exchange also proposes to adopt a definition of Non-Customer order, which would apply to any transaction that is not a Customer order, as described below.

[10] *See supra* note 8.

EDGX Options.[11] The Exchange does not anticipate that market makers will be significant users of Exchange routing services, as such participants typically maintain direct connectivity to other options exchanges. Also, as it has done historically in connection with the fee structure for routing to other options exchanges, the Exchange is proposing the charges set forth above, including the grouping of all Non-Customer orders, to maintain a simple fee schedule with respect to routing fees that approximates the total cost of routing, including Routing Costs.

Customer Penny Pilot Add Tiers

Currently, the Exchange offers a standard rebate of $0.25 per contract for Customer orders in Penny Pilot Securities that add liquidity to the Exchange, which apply to fee code PY. As set forth in footnote 1 of the fee schedule, the Exchange also offers tiered pricing pursuant to which Members can receive higher rebates up to $0.50 if they qualify pursuant to various criteria, including volume levels on BZX Options and, with respect to the Exchange's Cross-Asset Add Tiers, volume levels on BZX Options as well as volume on the Exchange's equity trading platform (''BZX Equities''). The Exchange proposes to add four new tiers to incentivize Members to add additional volume on the Exchange, particularly in Customer orders. The Exchange also proposes to delete one of the Cross-Asset Add Tiers, as set forth below.

The Exchange's current Customer Add Volume Tiers 1 through 3 require certain levels of ADV [12] as a percentage of average TCV.[13] The Exchange proposes to add Customer Add Volume Tiers 4 through 6, which will require certain levels of ADAV [14] as a percentage of average TCV. Below is a summary of proposed tiers 4 through 6:

- Customer Add Volume Tier 4 would provide a Customer order add rebate of $0.50 per contract for any Member that has an ADAV equal to or greater than 0.85% of average TCV.
- Customer Add Volume Tier 5 would provide a Customer order add rebate of $0.52 per contract for any Member that has an ADAV in Customer orders equal to or greater than 0.80% of average TCV and an ADAV in Market Maker [15] orders equal to or greater than 0.40% of average TCV.
- Customer Add Volume Tier 6 would provide a Customer order add rebate of $0.53 per contract for any Member that has an ADAV in Customer orders equal to or greater than 1.80% of average TCV.

Similar to other pricing where the Exchange seeks to incentivize growth by providing tiered pricing based on a Member's participation increase over time, the Exchange also proposes to adopt a new Customer Step-Up Volume Tier. Pursuant to the Customer Step-Up Volume Tier a Member would receive a Customer order add rebate of $0.53 per contract to the extent the Member has an Options Step-Up Add TCV [16] in Customer orders from September 2015 baseline equal to or greater than 0.40%.

In addition to the proposed new tiers described above, the Exchange proposes to eliminate Customer Cross-Asset Add Tier 2, and in turn, to re-number current Customer Cross-Asset Add Tier 1 as Customer Cross-Asset Add Tier.

Non-Customer Add Volume Tier Rebates for Increased Participation

The Exchange currently offers enhanced rebates under the: (i) Firm,[17] Broker Dealer,[18] and Joint Back Office [19] Penny Pilot Add Volume Tiers, which are set forth in footnote 2; (ii) the NBBO Setter Tiers, which are set forth in footnote 4; (iii) the Market Maker and Non-BATS Market Maker [20] Penny Pilot Add Volume Tiers, which are set forth in footnote 6; and (iv) the Firm, Broker Dealer, and Joint Back Office Non-Penny Pilot Add Volume Tiers, which are set forth in footnote 8. These tiers are collectively referred to hereafter as the ''Non-Customer Add Volume Tiers''. To incentivize the growth of BZX Options, particularly in Non-Customer orders, the Exchange proposes to adopt step-up pricing as follows. A Member with an Options Step-Up Add TCV in Non-Customer Orders from the Member's March 2015 baseline equal to or greater than 0.15% and an ADAV in Non-BATS Market Maker (''NBMM''), Firm, Broker Dealer (''BD'') and Joint Back Office (''JBO'') orders equal to or greater than 0.30% of average TCV would qualify for the following:

- Under footnote 2, a rebate of $0.43 per contract for Firm, BD, and JBO orders that add liquidity in Penny Pilot Securities, which yield fee code PF.
- Under footnote 6, a rebate of $0.43 per contract for Market Maker and NBMM orders that add liquidity in Penny Pilot Securities, which yield fee code PM.
- Under footnote 8, a rebate of $0.67 per contract for Firm, BD, and JBO orders that add liquidity in non-Penny Pilot Securities, which yield fee code NF.

Also, the Exchange proposes to modify the criteria for NBBO Setter Tier 3 to align with the step-up criteria proposed above. Pursuant to NBBO Setter Tier 3, qualifying Members earn an additional rebate per contract of $0.04 on Non-Customer orders that add liquidity. Currently, to qualify for this tier a Member must: (i) Have an Options Step-Up Add TCV from September 2014 baseline equal to or greater than 0.30%; (ii) have an ADV equal to or greater than 0.40% of average TCV; and (iii) have an order that establishes a new NBBO. The Exchange proposes to modify the first and second criteria for this tier to align with the step-up criteria for the other Non-Customer Add Volume Tiers described above. Specifically, a Member must have: (i) An Options Step-up Add TCV in Non-Customer orders from March 2015 baseline equal to or greater than 0.15%; and (ii) an ADAV in NBMM, Firm, BD, and JBO orders equal to or greater than 0.30% of average TCV. The additional rebate per contract will still only apply to an order that establishes a new NBBO.

In addition to the changes described above, the Exchange proposes to modify footnote 8 to explicitly state that the tiered rebates under such footnote are applicable to fee code NF. Although fee code NF in the Fee Codes and Associated Fees table properly refers to footnote 8, all other footnotes on the fee schedule also cross-reference back to applicable fee codes at the beginning of the footnote. The Exchange proposes to make this addition to footnote 8 to

[11] *See id.*

[12] ''ADV'' means average daily volume calculated as the number of contracts added or removed, combined, per day.

[13] ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges to the consolidated transaction reporting plan for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption and on any day with a scheduled early market close.

[14] ''ADAV'' means average daily added volume calculated as the number of contracts per day.

[15] ''Market Maker'' applies to any transaction identified by a Member for clearing in the Market Maker range at the OCC.

[16] ''Options Step-Up Add TCV'' means ADAV as a percentage of TCV in the relevant baseline month subtracted from current ADAV as a percentage of TCV.

[17] ''Firm'' applies to any transaction identified by a Member for clearing in the Firm range at the Options Clearing Corporation (''OCC''), excluding any Joint Back office transaction.

[18] ''Broker Dealer'' applies to any order for the account of a broker dealer, including a foreign broker dealer, that clears in the Customer range at the OCC.

[19] ''Joint Back Office'' applies to any transaction identified by a Member for clearing in the Firm Range at the OCC that is identified with an origin code as Joint Back Office.

[20] ''Non-BATS Market Maker'' applies to any transaction identified by a Member for clearing in the Market Maker range at the OCC, where such Member is not registered with the Exchange as a Market Maker, but is registered as a market maker on another options exchange.

ensure consistency with other footnotes and avoid potential confusion.

Non-Customer Penny Pilot Take Volume Tiers

The Exchange currently offers a total of six Non-Customer Penny Pilot Take Volume Tiers that provide discounted fees for Non-Customer orders in Penny Pilot Securities that remove liquidity from BZX Options under fee code PP. The Exchange proposes various changes to these tiers, including reducing the total number to three tiers and modifying these remaining tiers, as set forth below.

- The Exchange proposes to delete Non-Customer Volume Tiers 2 and 3 as well as the Non-Customer Step-Up Take Volume Tier.
- The Exchange currently charges $0.49 per contract for Members that qualify for Non-Customer Volume Tier 1, which requires that a Member has an ADV equal to or greater than 1.00% of average TCV. The Exchange proposes increasing the requirement necessary to qualify for Non-Customer Volume Tier 1 to require that a Member has an ADV equal to or greater than 1.50% of average TCV.
- The Exchange currently charges $0.45 per contract for Members that qualify for Non-Customer Volume Tier 4, which requires that a Member has an ADAV in Customer orders equal to or greater than 0.80% of average TCV. The Exchange proposes to maintain this requirement but also to add a requirement that a Member has an ADAV in Market Maker orders equal to or greater than 0.40% of average TCV. The Exchange also proposes to increase the fee per contract for Members that qualify for this tier to $0.47 per contract. In connection with the deleted tiers noted above, the Exchange proposes to rename current Non-Customer Take Volume Tier 4 as Non-Customer Take Volume Tier 2.
- The Exchange currently charges $0.43 per contract for Members that qualify for Non-Customer Volume Tier 5, which requires that a Member has an ADAV in Customer orders equal to or greater than 2.00% of average TCV. The Exchange proposes to decrease this requirement to require that a Member has an ADAV in Customer orders equal to or greater than 1.80% of average TCV. The Exchange also proposes to increase the fee per contract for Members that qualify for this tier to $0.46 per contract. In connection with the deleted tiers noted above, the Exchange proposes to rename current Non-Customer Take Volume Tier 5 as Non-Customer Take Volume Tier 3.

Other Changes

The Exchange also proposes to amend the Standard Rates table, which summarizes the range of fees at the beginning of the fee schedule, in order to reflect the changes proposed above. The Exchange also proposes to adopt a definition of Non-Customer order, which would apply to any transaction that is not a Customer order. Though the Exchange believes that this has always been understood as the meaning is clear from the term itself, the Exchange believes that adding the explicit definition will promote consistency with other defined terms and avoid potential confusion. In addition, the Exchange proposes to consistently capitalize the term Non-Customer throughout the fee schedule.

Implementation Date

The Exchange proposes to implement these amendments to its Fee Schedule effective immediately.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.[21] Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[22] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels to be excessive.

As explained above, the Exchange generally attempts to approximate the cost of routing to other options exchanges, including other applicable costs to the Exchange for routing. The Exchange believes that a pricing model based on approximate Routing Costs is a reasonable, fair and equitable approach to pricing. Specifically, the Exchange believes that its proposal to adopt routing fees to EDGX Options is fair, equitable and reasonable because the fees are generally an approximation of the anticipated cost to the Exchange for routing orders to EDGX Options. The Exchange notes that routing through the Exchange is voluntary. The Exchange also believes that the proposed fee structure for orders routed to and executed at EDGX Options is fair and equitable and not unreasonably discriminatory in that it applies equally to all Members.

Volume-based rebates and fees such as the ones currently maintained on BZX Options have been widely adopted by equities and options exchanges and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns, and introduction of higher volumes of orders into the price and volume discovery processes.

As explained above, the Exchange is proposing various modifications to the Exchange's tiered pricing structure that are intended to contribute to the continued growth of the Exchange. The proposed new Customer Penny Pilot Add Tiers are intended to incentivize Members to send additional volume, particularly Customer orders, to the Exchange. Similarly, the proposed new step-up tiers for the Non-Customer Add Volume Tiers, as well as the alignment of the criteria for NBBO Setter Tier 3 with such tiers, is intended to incentivize Members to send additional orders, particularly Non-Customer orders, to the Exchange. Finally, the elimination of Customer Cross-Asset Add Tier 2 and the proposed changes to the Non-Customer Penny Pilot Take Volume Tiers, including the proposed deletion of three tiers and the proposed increase to fees, are intended to allow the Exchange to continue to expand pricing incentives to promote the growth of the Exchange. The changes are also intended to incentivize additional volume by increasing qualifying criteria for the existing tiers, requiring more participation by Members to continue to receive reduced rates pursuant to such tiers.

The Exchange believes that these changes are reasonable, fair and equitable and non-discriminatory, for the reasons set forth with respect to volume-based pricing generally and because such changes will either incentivize participants to further contribute to market quality on the Exchange or will allow the Exchange to earn additional revenue that can be used to offset the addition of new pricing incentives. The Exchange also believes that the proposed fees and rebates remain consistent with pricing previously offered by the Exchange as well as competitors of the Exchange and do not represent a significant departure

[21] 15 U.S.C. 78f.

[22] 15 U.S.C. 78f(b)(4).

from the Exchange's general pricing structure.

The Exchange believes that the additional clarifying changes and corrections proposed in this filing are reasonable, fair and equitable and non-discriminatory because each is intended to improve the understandability of the Exchange's fee schedule and to avoid 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. The Exchange does not believe that any of the proposed changes to the Exchange's tiered pricing structure burden competition, but instead, that they enhance competition as they are intended to increase the competitiveness of BZX Options by offering new pricing incentives or modifying and eliminating pricing incentives in order to provide such incentives. Also, the Exchange believes that the increase to certain thresholds necessary to meet tiers offered by the Exchange contributes to rather than burdens competition, as such changes are intended to incentivize participants to increase their participation on the Exchange. Similarly, the introduction of new tiers is intended to provide incentives to Members to encourage them to enter orders to BZX Options, and thus is again intended to enhance competition.

Similarly, the Exchange does not believe that its proposed pricing for routing to EDGX Options burdens competition, as such rates are intended to approximate the cost of routing to EDGX Options. As stated above, the Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels to be excessive or providers of routing services if they deem routing fee levels to be excessive.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [23] and paragraph (f) of Rule 19b–4 thereunder.[24] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is 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 proposal is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–BATS–2015–98 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–BATS–2015–98. 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 Web site (*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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BATS–2015–98 and should be submitted on or before December 8, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–29231 Filed 11–16–15; 8:45 am]

**BILLING CODE 8011–01–P**

[23] 15 U.S.C. 78s(b)(3)(A).

[24] 17 CFR 240.19b–4(f).

[25] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. IC–31899; File No. 812–14256]**

## THL Credit, Inc., et al.; Notice of Application

November 10, 2015.

**AGENCY:** Securities and Exchange Commission (''Commission'').

**ACTION:** Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d–1 under the Act.

*Summary of Application:* Applicants request an order to permit a business development company and certain other closed-end management investment companies to co-invest in portfolio companies with each other and with affiliated investment funds.

*Applicants:* THL Credit, Inc. (''TCRD''), THL Credit Holdings, Inc. (''TCRD Subsidiary''), THL Credit Direct Lending Fund III LLC (''THL Credit Fund III''), THL Credit Advisors LLC (''BDC Adviser'') on behalf of itself and its successors,[1] and THL Credit Senior Loan Strategies LLC (''Subsidiary Adviser'') on behalf of itself and its successors.

**DATES:** *Filing Dates:* The application was filed on December 23, 2013, and amended on February 10, 2015, May 20, 2015, September 11, 2015, and November 6, 2015.

*Hearing or Notification of Hearing:* An order granting the requested relief will

[1] The term ''successor,'' as applied to an Adviser, means an entity that results from a reorganization into another jurisdiction or change in the type of business organization.

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 7, 2015, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

**ADDRESSES:** Brent J. Fields, Secretary, U.S. Securities and Exchange Commission, 100 F St. NE., Washington, DC 20549–1090. Applicants: 100 Federal St., 31st Floor, Boston, MA 02110.

**FOR FURTHER INFORMATION CONTACT:** Courtney S. Thornton, Senior Counsel, at (202) 551–6812 or David P. Bartels, Branch Chief, at (202) 551–6821 (Chief Counsel's Office, Division of Investment Management).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained via the Commission's Web site 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. TCRD is an externally managed, non-diversified closed-end management investment company incorporated in Delaware that has elected to be regulated as a business development company (''BDC'') under Section 54(a) of the Act.[2] TCRD's Objectives and Strategies [3] are to generate both current income and capital appreciation, primarily through investments in privately negotiated debt and equity securities of middle market companies. The board of directors (''Board'') of TCRD is comprised of seven directors, six of whom are Non-Interested Directors. A majority of the directors of each of the Regulated Funds will be persons who are not ''interested persons'' as defined in section 2(a)(19) of the Act (''Non-Interested Directors'').

2. THL Credit Fund III is a private fund organized in Delaware that has not yet formally commenced principal operations. THL Credit Fund III's investment objective is to generate current income consistent with capital preservation by investing primarily in first lien and second lien secured loans. THL Credit Fund III is not registered under the Act in reliance on the exclusion from the definition of ''investment company'' in section 3(c)(7) of the Act.

3. The BDC Adviser is a Delaware limited liability company and is registered as an investment adviser under the Advisers Act. The BDC Adviser serves as the investment adviser to TCRD and will serve as investment adviser to THL Credit Fund III. The Subsidiary Adviser is a Delaware limited liability company that is registered under the Advisers Act.

4. Applicants seek an order (''Order'') to permit one or more Regulated Funds [4] and/or one or more Affiliated Funds [5] to participate in the same investment opportunities through a proposed co-investment program (the ''Co-Investment Program'') where such participation would otherwise be prohibited under section 57(a)(4) and rule 17d–1 by (a) co-investing with each other in securities issued by issuers in private placement transactions in which an Adviser negotiates terms in addition to price; [6] and (b) making additional investments in securities of such issuers, including through the exercise of warrants, conversion privileges, and other rights to purchase securities of the issuers (''Follow-On Investments''). ''Co-Investment Transaction'' means any transaction in which a Regulated Fund (or its Wholly-Owned Investment Sub, as defined below) participated together with one or more other Regulated Funds and/or one or more Affiliated Funds in reliance on the requested Order. ''Potential Co-Investment Transaction'' means any investment opportunity in which a Regulated Fund (or its Wholly-Owned Investment Sub) could not participate together with one or more Affiliated Funds and/or one or more other Regulated Funds without obtaining and relying on the Order.[7]

5. Applicants state that a Regulated Fund may, from time to time, form one or more Wholly-Owned Investment Subs.[8] Such a subsidiary would be prohibited from investing in a Co-Investment Transaction with any Affiliated Fund or other Regulated Fund because it would be a company controlled by its parent Regulated Fund for purposes of section 57(a)(4) of the Act and rule 17d–1. Applicants request that each Wholly-Owned Investment Sub be permitted to participate in Co-

[2] Section 2(a)(48) defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in sections 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities.

[3] ''Objectives and Strategies'' means the investment objectives and strategies of a Regulated Fund (as defined below), as described in the Regulated Fund's registration statement on Form N–2, other filings the Regulated Fund has made with the Commission under the Securities Act of 1933 (the ''Securities Act''), or under the Securities Exchange Act of 1934, and the Regulated Fund's reports to shareholders.

[4] ''Regulated Fund'' means TCRD and any Future Regulated Fund. ''Future Regulated Fund'' means any closed-end management investment company (a) that is registered under the Act or has elected to be regulated as BDC, (b) whose investment adviser is an Adviser, and (c) that intends to participate in the Co-Investment Program. The term ''Adviser'' means (a) the BDC Adviser and the Subsidiary Adviser and (b) any future investment adviser that controls, is controlled by or is under common control with the BDC Adviser and is registered as an investment adviser under the Advisers Act.

[5] ''Affiliated Fund'' means THL Credit Fund III and any Future Affiliated Funds. ''Future Affiliated Funds'' means any entity (a) whose investment adviser is an Adviser, (b) that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act, and (c) that intends to participate in the Co-Investment Program.

[6] The term ''private placement transactions'' means transactions in which the offer and sale of securities by the issuer are exempt from registration under the Securities Act.

[7] All existing entities that currently intend to rely upon the requested Order have been named as applicants. Any other existing or future entity that subsequently relies on the Order will comply with the terms and conditions of the application. TCRD manages two limited term investment funds, THL Credit Greenway Fund LLC and THL Credit Greenway Fund II LLC (together, the ''Greenway Entities''). TCRD and the Greenway Entities previously agreed to conditions that would apply to any co-investment transactions between them, but the Greenway Entities are not applicants to the Order. Accordingly, the Greenway Entities would not be able to rely on the requested Order to participate in Co-Investment Transactions pursuant to the Order. Moreover, the Greenway Entities will not be making any new or follow-on co-investments with TCRD because the Greenway Entities are fully invested and do not, and will not at any point, have any capital to invest. No Greenway Entity will have an interest in any issuer that is the subject of a Co-Investment Transaction completed pursuant to the Order, and TCRD will not form or manage another entity structured in the same manner as the Greenway Entities. Additionally, THL Credit Logan JV LLC (''Logan JV''), a joint venture with TCRD, would not be able to rely on the requested Order and, accordingly, would not participate in Co-Investment Transactions pursuant to the Order. No entity that holds an interest in Logan JV is or would be an affiliated person, or an affiliated person of an affiliated person, of TCRD within the meaning of section 2(a)(3) of the Act, other than by virtue of its ownership interest in Logan JV.

[8] The term ''Wholly-Owned Investment Sub'' means an entity (i) that is wholly-owned by a Regulated Fund (with the Regulated Fund at all times holding, beneficially and of record, 100% of the voting and economic interests); (ii) whose sole business purpose is to hold one or more investments on behalf of the Regulated Fund; (iii) with respect to which the Regulated Fund's Board has the sole authority to make all determinations with respect to the entity's participation under the conditions of the application; and (iv) that would be an investment company but for Section 3(c)(1) or 3(c)(7) of the Act.

Investment Transactions in lieu of its parent Regulated Fund and that the Wholly-Owned Investment Sub's participation in any such transaction be treated, for purposes of the requested order, as though the parent Regulated Fund were participating directly. Applicants represent that this treatment is justified because a Wholly-Owned Investment Sub would have no purpose other than serving as a holding vehicle for the Regulated Fund's investments and, therefore, no conflicts of interest could arise between the Regulated Fund and the Wholly-Owned Investment Sub. The Regulated Fund's Board would make all relevant determinations under the conditions with regard to a Wholly-Owned Investment Sub's participation in a Co-Investment Transaction, and the Regulated Fund's Board would be informed of, and take into consideration, any proposed use of a Wholly-Owned Investment Sub in the Regulated Fund's place. If the Regulated Fund proposes to participate in the same Co-Investment Transaction with any of its Wholly-Owned Investment Subs, the Board will also be informed of, and take into consideration, the relative participation of the Regulated Fund and the Wholly-Owned Investment Sub. TCRD Subsidiary is a Wholly-Owned Investment Sub of TCRD, which is structured as a Delaware corporation. In reliance on the exclusion from the definition of ''investment company'' provided by section 3(c)(7) of the Act, TCRD Subsidiary is not registered under the Act.

6. When considering Potential Co-Investment Transactions for a Regulated Fund, the applicable Adviser will consider only the Objectives and Strategies, investment policies, investment positions, Available Capital (defined below),[9] and other pertinent factors applicable to that Regulated Fund. The Board of each Regulated Fund, including the Non-Interested Directors, has (or will have prior to relying on the requested Order) determined that it is in the best interests of the Regulated Fund to participate in Co-Investment Transactions. The Regulated Fund Advisers expect that any portfolio company that is an appropriate investment for a Regulated Fund should also be an appropriate investment for one or more other Regulated Funds and/or Affiliated Funds, with certain exceptions based on Available Capital or diversification.[10]

7. Other than pro rata dispositions and Follow-On Investments as provided in conditions 7 and 8, and after making the determinations required in conditions 1 and 2(a), the Adviser will present each Potential Co-Investment Transaction and the proposed allocation to the directors of the Board eligible to vote under section 57(o) of the Act (''Eligible Directors''), and the ''required majority,'' as defined in section 57(o) of the Act (''Required Majority'')[11] will approve each Co-Investment Transaction prior to any investment by the participating Regulated Fund.

8. With respect to the pro rata dispositions and Follow-On Investments provided in conditions 7 and 8, a Regulated Fund may participate in a pro rata disposition or Follow-On Investment without obtaining prior approval of the Required Majority if, among other things: (i) The proposed participation of each Regulated Fund and Affiliated Fund in such disposition is proportionate to its outstanding investments in the issuer immediately preceding the disposition or Follow-On Investment, as the case may be; and (ii) the Board of the Regulated Fund has approved that Regulated Fund's participation in pro rata dispositions and Follow-On Investments as being in the best interests of the Regulated Fund. If the Board does not so approve, any such disposition or Follow-On Investment will be submitted to the Regulated Fund's Eligible Directors. The Board of any Regulated Fund may at any time rescind, suspend or qualify its approval of pro rata dispositions and Follow-On Investments with the result that all dispositions and/or Follow-On Investments must be submitted to the Eligible Directors.

9. No Non-Interested Director of a Regulated Fund will have a financial interest in any Co-Investment Transaction, other than indirectly through share ownership in one of the Regulated Funds.

10. If an Adviser or its principals, or any person controlling, controlled by, or under common control with the Adviser or its principals, and any Affiliated Fund (collectively, the ''Holders'') own in the aggregate more than 25 per cent of the outstanding voting shares of a Regulated Fund, then the Holders will vote such shares as directed by an independent third party (such as the trustee of a voting trust or a proxy adviser) when voting on (1) the election of directors; (2) the removal of one or more directors; or (3) the vote of a majority of the outstanding voting securities, as defined in section 2(a)(42) of the Act. Applicants believe that this condition will ensure that the Non-Interested Directors will act independently in evaluating the Co-Investment Program, because the ability of the Adviser or its principals to influence the Non-Interested Directors by a suggestion, explicit or implied, that the Non-Interested Directors can be removed will be limited significantly. The Non-Interested Directors shall evaluate and approve any such voting trust or proxy adviser, taking into account its qualifications, reputation for independence, cost to the shareholders, and other factors that they deem relevant.

*Applicants' Legal Analysis:*

1. Section 57(a)(4) of the Act prohibits certain affiliated persons of a BDC from participating in joint transactions with the BDC or a company controlled by a BDC in contravention of rules as prescribed by the Commission. Under section 57(b)(2) of the Act, any person who is directly or indirectly controlling, controlled by, or under common control with a BDC is subject to section 57(a)(4). Applicants submit that each of the Regulated Funds and Affiliated Funds could be deemed to be a person related to each Regulated Fund in a manner described by section 57(b) by virtue of being under common control. Section 57(i) of the Act provides that, until the Commission prescribes rules under section 57(a)(4), the Commission's rules under section 17(d) of the Act applicable to registered closed-end investment companies will be deemed to apply to transactions subject to section 57(a)(4). Because the Commission has not adopted any rules under section 57(a)(4), rule 17d–1 also applies to joint transactions with Regulated Funds that are BDCs. Section 17(d) of the Act and rule 17d–1 under the Act are applicable to Regulated Funds that are registered closed-end investment companies.

2. Section 17(d) of the Act and rule 17d–1 under the Act prohibit affiliated persons of a registered investment

[9] The amount of each Regulated Fund's capital available for investment (''Available Capital'') will be determined based on the amount of cash on hand, existing commitments and reserves, if any, the targeted leverage level, targeted asset mix, and other investment policies and restrictions set from time to time by the Board of the applicable Regulated Fund or imposed by applicable laws, rules, regulations, or interpretations. Likewise, an Affiliated Fund's Available Capital will be determined based on the amount of cash on hand, existing commitments and reserves, if any, the targeted leverage level, targeted asset mix and other investment policies and restrictions set by the Affiliated Fund's directors, general partners or adviser or imposed by applicable laws, rules, regulations or interpretations.

[10] The Regulated Funds, however, will not be obligated to invest, or co-invest, when investment opportunities are referred to them.

[11] In the case of a Regulated Fund that is a registered closed-end fund, the Board members that make up the Required Majority will be determined as if the Regulated Fund were a BDC subject to Section 57(o).

company from participating in joint transactions with the company unless the Commission has granted an order permitting such transactions. In passing upon applications under rule 17d–1, the Commission considers whether the company's participation in the joint transaction is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

3. Applicants state that in the absence of the requested relief, the Regulated Funds would be, in some circumstances, limited in their ability to participate in attractive and appropriate investment opportunities. Applicants believe that the proposed terms and conditions will ensure that the Co-Investment Transactions are consistent with the protection of each Regulated Fund's shareholders and with the purposes intended by the policies and provisions of the Act. Applicants state that the Regulated Funds' participation in the Co-Investment Transactions will be consistent with the provisions, policies, and purposes of the Act and on a basis that is not different from or less advantageous than that of other participants.

*Applicants' Conditions:*

Applicants agree that the Order will be subject to the following conditions:

1. Each time an Adviser considers a Potential Co-Investment Transaction for an Affiliated Fund or another Regulated Fund that falls within a Regulated Fund's then-current Objectives and Strategies, the Regulated Fund's Adviser will make an independent determination of the appropriateness of the investment for such Regulated Fund in light of the Regulated Fund's then-current circumstances.

2. (a) If the Adviser deems a Regulated Fund's participation in any Potential Co-Investment Transaction to be appropriate for the Regulated Fund, it will then determine an appropriate level of investment for the Regulated Fund.

(b) If the aggregate amount recommended by the applicable Adviser to be invested by the applicable Regulated Fund in the Potential Co-Investment Transaction, together with the amount proposed to be invested by the other participating Regulated Funds and Affiliated Funds, collectively, in the same transaction, exceeds the amount of the investment opportunity, the investment opportunity will be allocated among them pro rata based on each participant's Available Capital, up to the amount proposed to be invested by each. The applicable Adviser will provide the Eligible Directors of each participating Regulated Fund with information concerning each participating party's Available Capital to assist the Eligible Directors with their review of the Regulated Fund's investments for compliance with these allocation procedures.

(c) After making the determinations required in conditions 1 and 2(a), the applicable Adviser will distribute written information concerning the Potential Co-Investment Transaction (including the amount proposed to be invested by each participating Regulated Fund and Affiliated Fund) to the Eligible Directors of each participating Regulated Fund for their consideration. A Regulated Fund will co-invest with one or more other Regulated Funds and/ or one or more Affiliated Funds only if, prior to the Regulated Fund's participation in the Potential Co-Investment Transaction, a Required Majority concludes that:

(i) The terms of the Potential Co-Investment Transaction, including the consideration to be paid, are reasonable and fair to the Regulated Fund and its shareholders and do not involve overreaching in respect of the Regulated Fund or its shareholders on the part of any person concerned;

(ii) the Potential Co-Investment Transaction is consistent with:

(A) The interests of the shareholders of the Regulated Fund; and

(B) the Regulated Fund's then-current Objectives and Strategies;

(iii) the investment by any other Regulated Funds or Affiliated Funds would not disadvantage the Regulated Fund, and participation by the Regulated Fund would not be on a basis different from or less advantageous than that of other Regulated Funds or Affiliated Funds; provided that, if any other Regulated Fund or Affiliated Fund, but not the Regulated Fund itself, gains the right to nominate a director for election to a portfolio company's board of directors or the right to have a board observer or any similar right to participate in the governance or management of the portfolio company, such event shall not be interpreted to prohibit the Required Majority from reaching the conclusions required by this condition (2)(c)(iii), if:

(A) The Eligible Directors will have the right to ratify the selection of such director or board observer, if any;

(B) the applicable Adviser agrees to, and does, provide periodic reports to the Regulated Fund's Board with respect to the actions of such director or the information received by such board observer or obtained through the exercise of any similar right to participate in the governance or management of the portfolio company; and

(C) any fees or other compensation that any Affiliated Fund or any Regulated Fund or any affiliated person of any Affiliated Fund or any Regulated Fund receives in connection with the right of an Affiliated Fund or a Regulated Fund to nominate a director or appoint a board observer or otherwise to participate in the governance or management of the portfolio company will be shared proportionately among the participating Affiliated Funds (who each may, in turn, share its portion with its affiliated persons) and the participating Regulated Funds in accordance with the amount of each party's investment; and

(iv) the proposed investment by the Regulated Fund will not benefit the Advisers, the Affiliated Funds or the other Regulated Funds or any affiliated person of any of them (other than the parties to the Co-Investment Transaction), except (A) to the extent permitted by condition 13, (B) to the extent permitted by Section 17(e) or 57(k) of the Act, as applicable, (C) indirectly, as a result of an interest in the securities issued by one of the parties to the Co-Investment Transaction, or (D) in the case of fees or other compensation described in condition 2(c)(iii)(C).

3. Each Regulated Fund has the right to decline to participate in any Potential Co-Investment Transaction or to invest less than the amount proposed.

4. The applicable Adviser will present to the Board of each Regulated Fund, on a quarterly basis, a record of all investments in Potential Co-Investment Transactions made by any of the other Regulated Funds or Affiliated Funds during the preceding quarter that fell within the Regulated Fund's then-current Objectives and Strategies that were not made available to the Regulated Fund, and an explanation of why the investment opportunities were not offered to the Regulated Fund. All information presented to the Board pursuant to this condition will be kept for the life of the Regulated Fund and at least two years thereafter, and will be subject to examination by the Commission and its staff.

5. Except for Follow-On Investments made in accordance with condition 8,[12] a Regulated Fund will not invest in reliance on the Order in any issuer in which another Regulated Fund, Affiliated Fund, or any affiliated person

[12] This exception applies only to Follow-On Investments by a Regulated Fund in issuers in which that Regulated Fund already holds investments.

of another Regulated Fund or Affiliated Fund is an existing investor.

6. A Regulated Fund will not participate in any Potential Co-Investment Transaction unless the terms, conditions, price, class of securities to be purchased, settlement date, and registration rights will be the same for each participating Regulated Fund and Affiliated Fund. The grant to an Affiliated Fund or another Regulated Fund, but not the Regulated Fund, of the right to nominate a director for election to a portfolio company's board of directors, the right to have an observer on the board of directors or similar rights to participate in the governance or management of the portfolio company will not be interpreted so as to violate this condition 6, if conditions 2(c)(iii)(A), (B) and (C) are met.

7. (a) If any Affiliated Fund or any Regulated Fund elects to sell, exchange or otherwise dispose of an interest in a security that was acquired in a Co-Investment Transaction, the applicable Advisers will:

(i) Notify each Regulated Fund that participated in the Co-Investment Transaction of the proposed disposition at the earliest practical time; and

(ii) formulate a recommendation as to participation by each Regulated Fund in the disposition.

(b) Each Regulated Fund will have the right to participate in such disposition on a proportionate basis, at the same price and on the same terms and conditions as those applicable to the participating Affiliated Funds and Regulated Funds.

(c) A Regulated Fund may participate in such disposition without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Regulated Fund and each Affiliated Fund in such disposition is proportionate to its outstanding investments in the issuer immediately preceding the disposition; (ii) the Board of the Regulated Fund has approved as being in the best interests of the Regulated Fund the ability to participate in such dispositions on a pro rata basis (as described in greater detail in the application); and (iii) the Board of the Regulated Fund is provided on a quarterly basis with a list of all dispositions made in accordance with this condition. In all other cases, the Adviser will provide its written recommendation as to the Regulated Fund's participation to the Eligible Directors, and the Regulated Fund will participate in such disposition solely to the extent that a Required Majority determines that it is in the Regulated Fund's best interests.

(d) Each Affiliated Fund and each Regulated Fund will bear its own expenses in connection with any such disposition.

8. (a) If any Affiliated Fund or any Regulated Fund desires to make a Follow-On Investment in a portfolio company whose securities were acquired in a Co-Investment Transaction, the applicable Advisers will:

(i) Notify each Regulated Fund that participated in the Co-Investment Transaction of the proposed transaction at the earliest practical time; and

(ii) formulate a recommendation as to the proposed participation, including the amount of the proposed Follow-On Investment, by each Regulated Fund.

(b) A Regulated Fund may participate in such Follow-On Investment without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Regulated Fund and each Affiliated Fund in such investment is proportionate to its outstanding investments in the issuer immediately preceding the Follow-On Investment; and (ii) the Board of the Regulated Fund has approved as being in the best interests of the Regulated Fund the ability to participate in Follow-On Investments on a pro rata basis (as described in greater detail in the application). In all other cases, the Adviser will provide its written recommendation as to the Regulated Fund's participation to the Eligible Directors, and the Regulated Fund will participate in such Follow-On Investment solely to the extent that a Required Majority determines that it is in the Regulated Fund's best interests.

(c) If, with respect to any Follow-On Investment:

(i) The amount of the opportunity is not based on the Regulated Funds' and the Affiliated Funds' outstanding investments immediately preceding the Follow-On Investment; and

(ii) the aggregate amount recommended by the applicable Adviser to be invested by the applicable Regulated Fund in the Follow-On Investment, together with the amount proposed to be invested by the other participating Regulated Funds and Affiliated Funds, collectively, in the same transaction, exceeds the amount of the opportunity, then the investment opportunity will be allocated among them pro rata based on each participant's Available Capital, up to the maximum amount proposed to be invested by each.

(d) The acquisition of Follow-On Investments as permitted by this condition will be considered a Co-Investment Transaction for all purposes and subject to the other conditions set forth in the application.

9. The Non-Interested Directors of each Regulated Fund will be provided quarterly for review all information concerning Potential Co-Investment Transactions and Co-Investment Transactions, including investments made by other Regulated Funds or Affiliated Funds that the Regulated Fund considered but declined to participate in, so that the Non-Interested Directors may determine whether all investments made during the preceding quarter, including those investments that the Regulated Fund considered but declined to participate in, comply with the conditions of the Order. In addition, the Non-Interested Directors will consider at least annually the continued appropriateness for the Regulated Fund of participating in new and existing Co-Investment Transactions.

10. Each Regulated Fund will maintain the records required by Section 57(f)(3) of the Act as if each of the Regulated Funds were a BDC and each of the investments permitted under these conditions were approved by the Required Majority under Section 57(f) of the Act.

11. No Non-Interested Director of a Regulated Fund will also be a director, general partner, managing member or principal, or otherwise an ''affiliated person'' (as defined in the Act) of an Affiliated Fund.

12. The expenses, if any, associated with acquiring, holding or disposing of any securities acquired in a Co-Investment Transaction (including, without limitation, the expenses of the distribution of any such securities registered for sale under the Securities Act) will, to the extent not payable by the Advisers under their respective investment advisory agreements with Affiliated Funds and the Regulated Funds, be shared by the Regulated Funds and the Affiliated Funds in proportion to the relative amounts of the securities held or to be acquired or disposed of, as the case may be.

13. Any transaction fee (including break-up or commitment fees but excluding broker's fees contemplated by Section 17(e) or 57(k) of the Act, as applicable), received in connection with a Co-Investment Transaction will be distributed to the participating Regulated Funds and Affiliated Funds on a pro rata basis based on the amounts they invested or committed, as the case may be, in such Co-Investment Transaction. If any transaction fee is to be held by an Adviser pending consummation of the transaction, the fee will be deposited into an account maintained by such Adviser at a bank or

banks having the qualifications prescribed in Section 26(a)(1) of the Act, and the account will earn a competitive rate of interest that will also be divided pro rata among the participating Regulated Funds and Affiliated Funds based on the amounts they invest in such Co-Investment Transaction. None of the Affiliated Funds, the Advisers, the other Regulated Funds or any affiliated person of the Regulated Funds or Affiliated Funds will receive additional compensation or remuneration of any kind as a result of or in connection with a Co-Investment Transaction (other than (a) in the case of the Regulated Funds and the Affiliated Funds, the pro rata transaction fees described above and fees or other compensation described in condition 2(c)(iii)(C); and (b) in the case of an Adviser, investment advisory fees paid in accordance with the agreement between the Adviser and the Regulated Fund or Affiliated Fund.

14. If the Holders own in the aggregate more than 25 percent of the shares of a Regulated Fund, then the Holders will vote such shares as directed by an independent third party (such as the trustee of a voting trust or a proxy adviser) when voting on (1) the election of directors; (2) the removal of one or more directors; or (3) any matters requiring approval by the vote of a majority of the outstanding voting securities, as defined in section 2(a)(42) of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–29204 Filed 11–16–15; 8:45 am]

**BILLING CODE 8011–01–P**

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–76421; File No. SR–OCC–2015–804]**

## Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of an Advance Notice To Modify the Options Clearing Corporation's Margin Methodology by Incorporating Variations in Implied Volatility

November 10, 2015.

Pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act entitled the Payment, Clearing, and Settlement Supervision Act of 2010 (''Payment, Clearing and Settlement Supervision Act'') [1] and Rule 19b–4(n)(1)(i) under the Securities Exchange Act of 1934,[2] notice is hereby given that on October 5, 2015, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the advance notice as described in Items I and II below, which Items have been prepared by OCC.[3] The Commission is publishing this notice to solicit comments on the advance notice from interested persons.

### I. Clearing Agency's Statement of the Terms of Substance of the Advance Notice

This advance notice is filed by The Options Clearing Corporation (''OCC'') in connection with a proposed change that would modify OCC's margin methodology by incorporating variations in implied volatility for ''shorter tenor'' options within the System for Theoretical Analysis and Numerical Simulations (''STANS'').

### II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Advance Notice

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the advance notice and discussed any comments it received on the advance notice. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A) and (B) below, of the most significant aspects of these statements.

*(A) Clearing Agency's Statement on Comments on the Advance Notice Received From Members, Participants or Others*

Written comments were not and are not intended to be solicited with respect to the proposed change and none have been received.

*(B) Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act*

Description of the Proposed Change

The proposed change would modify OCC's margin methodology by more broadly incorporating variations in implied volatility within STANS. As explained below, OCC believes that expanding the use of variations in implied volatility within STANS for substantially all [4] option contracts available to be cleared by OCC that have a residual tenor [5] of less than three years (''Shorter Tenor Options'') would enhance OCC's ability to ensure that option prices and the margin coverage related to such positions more appropriately reflect possible future market value fluctuations and better protect OCC in the event it must liquidate the portfolio of a suspended Clearing Member.

Implied Volatility in STANS Generally

STANS is OCC's proprietary risk management system that calculates Clearing Members' margin requirements in accordance with OCC's Rules.[6] The STANS methodology uses Monte Carlo simulations to forecast price movement and correlations in determining a Clearing Member's margin requirement. Under STANS, the daily margin calculation for each Clearing Member account is constructed to comply with Commission Rule 17Ad–22(b)(2),[7] ensuring OCC maintains sufficient financial resources to liquidate a defaulting member's positions, without loss, within the liquidation horizon of two business days.

The STANS margin requirement for an account is composed of two primary components: [8] a base component and a

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[1] 12 U.S.C. 5465(e)(1).

[2] 17 CFR 240.19b–4(n)(1)(i).

[3] OCC also filed a proposed rule change with the Commission pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 and Rule 19b–4 thereunder, seeking approval of changes to its rules necessary to implement the proposal. 15 U.S.C. 78s(b)(1) and 17 CFR 240.19b–4, respectively. *See* SR–OCC–2015–016.

[4] OCC is proposing to exclude: (i) Binary options, (ii) options on energy futures, and (iii) options on U.S. Treasury securities. These relatively new products were introduced as the implied volatility margin methodology changes were in the process of being completed by OCC. Subsequent to the implementation of the revised implied volatility margin methodology discussed in this filing, OCC would plan to modify the margin methodology to accommodate the above new products. In addition, due to *de minimus* open interest in those options, OCC does not believe there is a substantive risk if the products would be excluded from the implied volatility margin methodology modifications at this time.

[5] The ''tenor'' of an option is the amount of time remaining to its expiration.

[6] Pursuant to OCC Rule 601(e)(1), however, OCC uses the Standard Portfolio Analysis of Risk Margin Calculation System (''SPAN'') to calculate initial margin requirements for segregated futures accounts. No changes are proposed to OCC's use of SPAN because the proposed changes do not concern futures. *See* Securities Exchange Act Release No. 72331 (June 5, 2014), 79 FR 33607 (June 11, 2014) (SR–OCC–2014–13).

[7] 17 CFR 240.17Ad–22(b)(2). As a registered clearing agency that performs central counterparty services, OCC is required to ''use margin requirements to limit its credit exposures to participants under normal market conditions and use risk-based models and parameters to set margin requirements and review such margin requirements and the related risk-based models and parameters at least monthly.''

[8] The two primary components referenced relate to the risk calculation and are associated with the 99% two-day expected shortfall (*i.e.,* ES) and the concentration/dependence margin add-on (*i.e.,*

stress test component. The base component is obtained from a risk measure of the expected margin shortfall for an account that results under Monte Carlo price movement simulations. For the exposures that are observed regarding the account, the base component is established as the estimated average of potential losses higher than the 99% VaR[9] threshold to help ensure that OCC continuously meets the requirements of Rule 17Ad–22(b)(2).[10] In addition, OCC augments the base component using the stress test component. The stress test component is obtained by considering increases in the expected margin shortfall for an account that would occur due to (i) market movements that are especially large and/or in which certain risk factors would exhibit perfect or zero correlations rather than correlations otherwise estimated using historical data or (ii) extreme and adverse idiosyncratic movements for individual risk factors to which the account is particularly exposed.

Including variations in implied volatility within STANS is intended to ensure that the anticipated cost of liquidating each Shorter Tenor Option position in an account recognizes the possibility that implied volatility could change during the two business day liquidation time horizon in STANS and lead to corresponding changes in the market prices of the options. Generally speaking, the implied volatility of an option is a measure of the expected future volatility of the value of the option's annualized standard deviation of the price of the underlying security, index, or future at exercise, which is reflected in the current option premium in the market. The volatility is ''implied'' from the premium for an option[11] at any given time by calculating the option premium under certain assumptions used in the Black-Scholes options pricing model and then determining what value must be added to the known values for all of the other variables in the Black-Scholes model to equal the premium. In effect, the implied volatility is responsible for that portion of the premium that cannot be explained by the then-current intrinsic value[12] of the option, discounted to reflect its time value. OCC currently incorporates variations in implied volatility as risk factors for certain options with residual tenors of at least three years (''Longer Tenor Options'').[13]

Implied Volatility for Shorter Tenor Options

OCC is proposing certain modifications to STANS to more broadly incorporate variations in implied volatility for Shorter Tenor Options. Consistent with its approach for Longer Tenor Options, OCC would model a volatility surface[14] for Shorter Tenor Options by incorporating into the econometric models underlying STANS certain risk factors regarding a time series of proportional changes in implied volatilities for a range of tenors and absolute deltas. Shorter Tenor Option volatility points would be defined by three different tenors and three different absolute deltas, which produce nine ''pivot points.'' In calculating the implied volatility values for each pivot point, OCC would use the same type of series-level pricing data set to create the nine pivot points that it does to create the larger number of pivot points used for Longer Tenor Options, so that the nine pivot points would be the result of a consolidation of the entire series-level dataset into a smaller and more manageable set of pivot points before modeling the volatility surface.

OCC partnered with an experienced vendor in this area to study implied volatility surfaces and to use back-testing of OCC's margin requirements to build a model that would be appropriately sophisticated and operate conservatively to minimize margin exceedances. The back-testing results support that, over a look-back period from January 2008 to May 2013,[15] using nine pivot points to define the volatility surface would have resulted in a comparable number of instances in which an account containing certain hypothetical positions would have been under-margined compared to using a larger number of pivot points to define the volatility surface. Therefore, although OCC could create a more detailed volatility surface by increasing the number of pivot points, OCC has determined that doing so for Shorter Tenor Options would not be appropriate. Moreover, due to the significantly larger volume of Shorter Tenor Options, OCC also believes that relying on a greater number of pivot points could potentially lead to increases in the time necessary to compute margin requirements that would impair OCC's capacity to make timely calculations.

Under OCC's model for Shorter Tenor Options, the volatility surfaces would be defined using tenors of one month, three months, and one year with absolute deltas, in each case, of 0.25, 0.5, and 0.75. This results in the nine implied volatility pivot points. Given that premiums of deep-in-the-money options (those with absolute deltas closer to 1.0) and deep-out-of-the-money options (those with absolute deltas closer to 0) are insensitive to changes in implied volatility, in each case notwithstanding increases or decreases in implied volatility over the two business day liquidation time horizon, those higher and lower absolute deltas have not been selected as pivot points. OCC believes that it is appropriate to focus on pivot points representing at- and near-the-money options because prices for those options are more sensitive to variations in implied volatility over the liquidation time horizon of two business days. Specifically, for SPX index options, four factors explain 99% variance of implied volatility movements: (i) A parallel shift of the entire surface, (ii) a slope or skewness with respect to Delta, (iii) a slope with respect to time to maturity; and, (iv) a convexity with respect to the time to maturity. The nine correlated pivot points, arranged by delta and tenor, give OCC the flexibility to capture these factors.

In the proposed approach to computing margin for Shorter Tenor Options under STANS, OCC would first use its econometric models to simulate implied volatility changes at the nine pivot points that would correspond to

Add-on Charge). When computing the ES or Add-on Charges, STANS computes the theoretical value of an option for a given simulated underlying price change using the implied volatility reflected in the prior day closing price. Under the proposed change, STANS would use a modeled implied volatility intended to simulate the estimated change in implied volatilities given the simulated underlying price change in STANS.

[9] The term ''value at risk'' or ''VaR'' refers to a statistical technique that, generally speaking, is used in risk management to measure the potential risk of loss for a given set of assets over a particular time horizon.

[10] 17 CFR 240.17Ad–22(b)(2).

[11] The premium is the price that the holder of an option pays and the writer of an option receives for the rights conveyed by the option.

[12] Generally speaking, the intrinsic value is the difference between the price of the underlying and the exercise price of the option.

[13] *See* Securities Exchange Act Release Nos. 68434 (December 14, 2012), 77 FR 57602 [sic] (December 19, 2012) (SR–OCC–2012–14); 70709 [sic] (October 18, 2013), 78 FR 63267 [sic] (October 23, 2013) [sic] (SR–OCC–2013–16).

[14] The term ''volatility surface'' refers to a three-dimensional graphed surface that represents the implied volatility for possible tenors of the option and the implied volatility of the option over those tenors for the possible levels of ''moneyness'' of the option. The term ''moneyness'' refers to the relationship between the current market price of the underlying interest and the exercise price.

[15] The look-back period was determined based on the availability of relevant data at the time of the back-testing. Relevant data in this case means data obtained from OCC's consultants, Finance Concepts. The back-testing was performed by Finance Concepts using data from their OptionMetrics Ivy source. The Ivy source maintains data from prior to 2008, but it is not clear that data from before the market dislocation in early August 2007 is as relevant to today's options markets.

underlying price simulations used by STANS.[16] For each Shorter Tenor Option in the account of a Clearing Member, changes in its implied volatility would then be simulated according to the corresponding pivot point and the price of the option would be computed to determine the amount of profit or loss in the account under the particular STANS price simulation. Additionally, as OCC does today, it would continue to use simulated closing prices for the assets underlying options in the account of a Clearing Member that are scheduled to expire within the liquidation time horizon of two business days to compute the options' intrinsic value[17] and use those values to help calculate the profit or loss in the account.[18]

Effects of the Proposed Change and Implementation

OCC believes that the proposed change would enhance OCC's ability to ensure that in determining margin requirements STANS appropriately takes into account normal market conditions that OCC may encounter in the event that, pursuant to OCC Rule 1102, it suspends a defaulted Clearing Member and liquidates its accounts.[19] Accordingly, the change would promote OCC's ability to ensure that margin assets are sufficient to liquidate the accounts of a defaulted Clearing Member without incurring a loss.

OCC estimates that Clearing Member accounts generally would experience increased margin requirements as compared to those calculated for the same options positions in an account today. OCC estimates the proposed change would most significantly affect customer accounts and least significantly affect firm accounts, with the effect on Market Maker accounts falling in between.

OCC expects customer accounts to experience the largest margin increases because positions considered under STANS for customer accounts typically consist of more short than long options positions, and therefore reflect a greater magnitude of direction risk than other account types. Positions considered under STANS for customer accounts typically consist of more short than long options positions because, to facilitate Clearing Members' compliance with Commission requirements for the protection of certain customer property under Rule 15c3–3(b),[20] OCC segregates long option positions in the securities customers' account of each Clearing Member and does not assign them any value in determining the expected liquidating value of the account.[21]

While overall OCC expects an increase in aggregate margins by about $1.5 billion (9% of expected shortfall and stress-test add-on), OCC does anticipate a decrease in margins in certain clearing member accounts' requirements. OCC anticipates that such a decrease would occur in accounts with underlying exposure and implied volatility exposure in the same direction, such as concentrated call positions, due to the negative correlation typically observed between these two factors. Over the back-testing period, about 28% of the observations for accounts on the days studied had lower margins under the proposed methodology and the average reduction was about 2.7%. Parallel results will be made available to the membership in the weeks ahead of implementation.

To help Clearing Members prepare for the proposed change, OCC has provided Clearing Members with an Information Memo explaining the proposal, including the planned timeline for its implementation,[22] and discussed with certain other clearinghouses the likely effects of the change on OCC's cross-margin agreements with them. OCC is also publishing an Information Memo to notify Clearing Members of the submission of this filing to the Commission. Subject to all necessary regulatory approvals regarding the proposed change, for a period of at least two months beginning in October 2015, OCC intends to begin making parallel margin calculations with and without the changes in the margin methodology. The commencement of the calculations would be announced by an Information Memo, and OCC would provide the calculations to Clearing Members each business day. OCC believes that Clearing Members will have sufficient time and data to plan for the potential increases in their respective margin requirements. OCC would also provide at least thirty days prior notice to Clearing Members before implementing the change.

Consistency With the Payment, Clearing and Settlement Supervision Act

OCC believes that the proposed change regarding the incorporation of variations in implied volatility within STANS is consistent with Section 805(b)(1) of the Payment, Clearing and Settlement Supervision Act[23] because the proposed procedures would promote robust risk management by more robustly computing Clearing Member margin requirements in order to ensure that OCC maintains adequate financial resources in the event of a Clearing Member default. As described above, OCC believes that the proposed change would enhance OCC's ability to ensure that margin requirements determined through STANS appropriately take into account normal market conditions that OCC may encounter in the event that, pursuant to OCC Rule 1102, it suspends a defaulted Clearing Member and liquidates its accounts. As a result, OCC would be better able to ensure that margin assets are sufficient to liquidate the accounts of a defaulted Clearing Member without incurring a loss and thereby promote robust risk management.

Anticipated Effect on and Management of Risk

OCC believes that the proposed change would reduce OCC's overall level of risk because the proposed change makes it less likely that the amount of margin OCC collects from Clearing Members Clearing Fund would be insufficient should OCC need to use such margin in connection with a Clearing Member default. As described above, OCC is proposing certain modifications to STANS to more broadly incorporate variations in implied volatility for Shorter Tenor Options. Such modifications would

[16] STANS relies on 10,000 price simulation scenarios that are based generally on a historical data period of 500 business days, which is updated monthly to keep model results from becoming stale.

[17] Generally speaking, the intrinsic value is the difference between the price of the underlying and the exercise price of the option.

[18] For such Shorter Tenor Options that are scheduled to expire on the open of the market rather than the close, OCC would use the relevant opening price for the underlying assets.

[19] Under authority in OCC Rules 1104 and 1106, OCC has authority to promptly liquidate margin assets and options positions of a suspended Clearing Member in the most orderly manner practicable, which might include, but would not be limited to, a private auction.

[20] 17 CFR 240.15c3–3(b).

[21] *See* OCC Rule 601(d)(1). Pursuant to OCC Rule 611, however, a Clearing Member, subject to certain conditions, may instruct OCC to release segregated long option positions from segregation. Long positions may be released, for example, if they are part of a spread position. Once released from segregation, OCC receives a lien on each unsegregated long securities option carried in a customers' account and therefore OCC permits the unsegregated long to offset corresponding short option positions in the account.

[22] In addition to the proposal to introduce variations in implied volatility for Shorter Tenor Options, OCC is also contemporaneously proposing an additional change to its margin methodology that would use liquidity charges to account for certain costs associated with hedging in which OCC would engage during a Clearing Member liquidation and the reasonably expected effect that OCC's management of the liquidation would have on related bid-ask spreads in the marketplace. The Information Memo explained both of these proposed changes and their expected effects on margin requirements.

[23] 12 U.S.C. 5464(b)(1).

result in OCC being able to better ensure that margin requirements computed by STANS because [sic] STANS would appropriately take into account normal market conditions that OCC may encounter in the event that, pursuant to OCC Rule 1102, it suspends a defaulted Clearing Member and liquidates its accounts. As a result, the proposed change would make it less likely that OCC would need to use additional financial resources, such as its clearing fund, in order to appropriately manage a clearing member default. Moreover, the proposed change is intended to measure the exposure associated with changes in option implied volatilities, thus mitigating credit risk presented by clearing members. Accordingly, OCC believes that the proposed changes would reduce risks to OCC and its participants. Moreover, and for the same reasons, the proposed change will facilitate OCC's ability to manage risk.

## III. Date of Effectiveness of the Advance Notice and Timing for Commission Action

The designated clearing agency may implement this change if it has not received an objection to the proposed change within 60 days of the later of (i) the date that the Commission receives the notice of proposed change, or (ii) the date the Commission receives any further information it requests for consideration of the notice. The designated clearing agency shall not implement this change if the Commission has an objection.

The Commission may, during the 60-day review period, extend the review period for an additional 60 days for proposed changes that raise novel or complex issues, subject to the Commission providing the designated clearing agency with prompt written notice of the extension. The designated clearing agency may implement a change in less than 60 days from the date of receipt of the notice of proposed change by the Commission, or the date the Commission receives any further information it requested, if the Commission notifies the designated clearing agency in writing that it does not object to the proposed change and authorizes the designated clearing agency to implement the change on an earlier date, subject to any conditions imposed by the Commission.

The designated clearing agency shall post notice on its Web site of proposed changes that are implemented.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.[24]

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–OCC–2015–804 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–OCC–2015–804. 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 Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the advance notice that are filed with the Commission, and all written communications relating to the advance notice between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site 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 OCC and on OCC's Web site at *http://www.optionsclearing.com/components/docs/legal/rules_and_bylaws/sr_occ_2015_804.pdf.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–OCC–2015–804 and should be submitted on or before December 2, 2015.

[24] OCC also filed a proposed rule change with the Commission pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 and Rule 19b–4 thereunder, seeking approval of changes to its rules necessary to implement the proposal. *See supra* note 3.

By the Commission.

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–29227 Filed 11–16–15; 8:45 am]

**BILLING CODE 8011–01–P**

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–76414; File No. SR–Phlx–2015–92]**

## Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish the Securities Trader and Securities Trader Principal Registration Categories and To Retire Other Registration Categories

November 10, 2015.

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 4, 2015, NASDAQ OMX PHLX LLC ("Phlx" 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 establish the Securities Trader and Securities Trader Principal registration categories and to retire the Proprietary Trader and Proprietary Trader Principal registration categories. Phlx will announce the effective date of the proposed rule change in a Trader Alert. The Exchange is also amending its rules to establish the Series 57 examination as the appropriate qualification examination for Securities Traders and deleting the rule referring to the S501 continuing education program currently applicable to Proprietary Traders.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.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

The Exchange is proposing to replace the Proprietary Trader registration category and Proprietary Trader qualification examination (Series 56) with the Securities Trader Registration Category and the Securities Trader qualification examination (Series 57) in its registration rules relating to securities trading activity. It is also proposing to replace the Proprietary Trader Principal registration category with the Securities Trader Principal registration category. This filing is, in all material respects, based upon SR–FINRA–2015–017, which was recently approved by the Commission.[3]

I. Phlx's Securities Trader Registration Category

Currently, under Exchange Rule 613, except members whose activities are limited to the Exchange's options trading floor and who are registered pursuant to Rule 620(a)[4] as well as associated persons whose activities are limited to the Exchange's options trading floor and are registered pursuant to Rule 620(b)[5], all persons engaged or to be engaged in the investment banking or securities business of a member organization who are to function as representatives[6] must register as such with the Exchange through WebCRD under PHLX in the category of registration appropriate to the function to be performed as specified in Rule 613(e). Rule 613(e) provides that individuals required to register with the Exchange as a General Securities Representative must pass the Series 7 examination before such registration may become effective.

In 2012, the Exchange adopted the Proprietary Trader registration category as an alternative to the General Securities Representative registration category.[7] The Proprietary Trader registration category is an available alternative to General Securities Representative registration for members and persons associated with member organizations who are engaged solely in proprietary trading, market making or effecting transactions on behalf of a broker-dealer account. Individuals registering in the Proprietary Trader registration category must pass the Series 56 examination and are not required to pass the Series 7 examination. Individuals who qualify for registration as Proprietary Traders are not required to do so if they register as General Securities Representatives.

The Exchange now proposes to amend Rule 613(f) by deleting the Proprietary Trader registration category and replacing it with a new requirement that each person associated with a member who is included within the definition of a representative as defined in Rule 1(cc) must register with the Exchange as a Securities Trader if, with respect to transactions in equity, preferred or convertible debt securities, or foreign currency options on the Exchange, such person is engaged in proprietary trading, the execution of transactions on an agency basis, or the direct supervision of such activities, other than any person associated with a member whose trading activities are conducted principally on behalf of an investment company that is registered with the Commission pursuant to the Investment Company Act of 1940 and that controls, is controlled by or is under common control, with the member (an ''investment company firm''). The proposed language requires applicants to pass an appropriate Qualification Examination for Securities Trader (the Series 57 examination) before registering in the new Securities Trader category. It also provides that a person registered as a Securities Trader shall not be qualified to function in any other registration category, unless he or she is also qualified and registered in such other registration category.

A reference to paragraph (f) is being added to Rule 613(a) to make clear that representatives who are required to register shall register in the category of registration appropriate to the function to be performed as specified in paragraph (e) or (f). Additionally, the Exchange is deleting from Rule 613(a) the general requirement that before a representative's registration may become effective, they [sic] shall pass the Series 7 examination. The Series 7 requirement continues to apply to candidates for General Securities Representative registration, however, pursuant to Rule 613(e). Proposed paragraph (f) provides that candidates for Securities Trader registration must pass the Series 57 examination. They will not, however, be required to pass the Series 7 in order to register as Securities Traders.

A person registered as a Proprietary Trader in the Central Registration Depository (CRD®) system on the effective date of the proposed rule change will be grandfathered as a Securities Trader without having to take any additional examinations and without having to take any other actions. In addition, individuals who were registered as a Proprietary Trader in the CRD system prior to the effective date of the proposed rule change will be eligible to register as Securities Traders without having to take any additional examinations, provided that no more than two years have passed between the date they were last registered as a

[3] *See* Securities Exchange Act Release No. 75783 (August 28, 2015), 80 FR 53369 (September 3, 2015) (approving SR–FINRA–2015–017) referred to herein as the ''FINRA Amendments''. According to the approval order, FINRA's expected effective date for the FINRA Amendments is January 4, 2016.

[4] Pursuant to Exchange Rule 620(a), each Floor Broker, Specialist and Registered Options Trader on the Exchange trading floor must be registered as ''Member Exchange'' (''ME'') under ''PHLX'' on Form U4, pursuant to Rule 616. In addition, each Floor Broker, Specialist and Registered Options Trader must successfully complete the appropriate floor trading examination(s), if prescribed by the Exchange, in addition to requirements imposed by other Exchange Rules. The Exchange may also require periodic examinations due to changes in trading rules, products or automated systems. The registration rule changes proposed herein will not apply to the trading floor entities covered by Rule 620(a).

[5] Pursuant to Exchange Rule 620(b), all trading floor personnel, including clerks, interns, stock execution clerks and any other associated persons, of a member organization not required to register pursuant to Rule 620(a) must be registered as [sic] ''Floor Employee'' (''FE'') under ''PHLX'' on Form U4, pursuant to Rule 616. The Exchange may require successful completion by such persons of an examination, in addition to requirements imposed by other Exchange Rules. The Exchange may also require periodic examinations of such persons due to changes in trading rules, products or automated systems. The registration rule changes proposed herein will not apply to the trading floor personnel covered by Rule 620(b).

[6] Exchange Rule 1(cc) defines ''representative'' as a member or an associated person of a registered broker or dealer, including assistant officers other than principals, who is engaged in the investment banking or securities business for the member organization including the functions of supervision, solicitation or conduct of business in securities or who is engaged in the training of persons associated with a broker or dealer for any of these functions. The rule also states that, to the extent required by the provisions of Rule 613, all representatives are required to be registered with the Exchange.

[7] *See* Securities Exchange Act Release No. 66840 (April 20, 2012), 77 FR 25003 (April 26, 2012) (SR–Phlx–2012–23).

representative and the date they register as a Securities Trader.

Persons registered in the new category would be subject to the continuing education requirements of Rule 640. The Exchange proposes to amend Rule 640 by removing the option for Series 56 registered persons to participate in the S501 Series 56 Proprietary Trader continuing education program in order to satisfy the Regulatory Element. The S501 Series 56 Proprietary Trader continuing education program is being phased out along with the Series 56 Proprietary Trader qualification examination. As a result, effective January 4, 2016, the S501 Series 56 Proprietary Trader continuing education program for Series 56 registered persons will cease to exist. In place of the S501 Series 56 Proprietary Trader continuing education program for Series 56 registered persons, the Exchange proposes that Series 57 registered persons be permitted to enroll in the S101 General Program for Series 7 and all other registered persons.[8]

II. Securities Trader Principal Registration Category

Currently, under Rule 612(a), each member and person associated with a member organization to which Rule 611 [9] applies and who is included within the definition of Principal in Rule 611, and each person designated as a Chief Compliance Officer on Schedule A of Form BD of a member organization to which Rule 611 applies, must register with the Exchange as a General Securities Principal and pass the Series 24 examination before such registration may become effective, unless such person's activities are so limited as to qualify such person for one or more of the limited categories of Principal registration specified in the rule. In 2012, the Exchange adopted, as a corollary to the Proprietary Trader representative registration category, a new Rule 612(e) Proprietary Trader Principal registration category. Under Rule 612(e), individuals required to register as Principal may register with the Exchange as a [sic] Proprietary Trader Principal if (A) his or her supervisory responsibilities in the investment banking and securities business are limited to the activities of a member organization that involve proprietary trading, market making and effecting transactions on behalf of broker-dealers; (B) he or she is registered pursuant to Exchange Rules as a Proprietary Trader; and (C) he or she is qualified to be so registered by passing the Series 24 examination. A person registered in the Proprietary Trader Principal category solely on the basis of having passed the Series 24 examination for that category may not function in a Principal capacity with responsibility over any area of business activity other than proprietary trading, market making and effecting transactions on behalf of broker-dealers as set forth in Rule 612(e)(i)(A).

In consultation with FINRA and other exchanges, the Exchange is now proposing to retire the Proprietary Trader Principal category. Accordingly, it is deleting Rule 612(e) in its entirety. In its place, the Exchange is adopting proposed Rule 612(e), which adds a new Securities Trader Principal registration category. Under the proposed rule each person associated with a member who is included within the definition of principal in Rule 611(b) and who will have supervisory responsibility over the securities trading activities described in Rule 613(f) must become qualified and registered as a Securities Trader Principal. The proposed rule change should allow Phlx to more easily track principals with supervisory responsibility over securities trading activities.

To qualify for registration as a Securities Trader Principal, a candidate would first be required to qualify and register as a Securities Trader under Rule 613(f) and pass the General Securities Principal qualification examination. A person who is qualified and registered as a Securities Trader Principal under the proposed rule would only have supervisory responsibility over the securities trading activities specified in Rule 613(f), unless such person were separately qualified and registered in another appropriate principal registration category, such as the General Securities Principal registration category. Finally, a registered General Securities Principal would not be qualified to supervise the securities trading activities described in Rule 613(f), unless such person also qualified and registered as a Securities Trader under Rule 613(f) by passing the Securities Trader qualification examination and registering as a Securities Trader Principal.

A person registered as a Proprietary Trader Principal or as a Limited Principal-Registered Options Principal (''Limited Options Principal'') [10] in the CRD system on the effective date of the proposed rule change will be eligible to register as a Securities Trader Principal without having to take any additional examinations. An individual who was registered as a Proprietary Trader Principal in the CRD system prior to the effective date of the proposed rule change will also be eligible to register as a Securities Trader Principal without having to take any additional examinations, provided that no more than two years have passed between the date they [sic] were last registered as a principal and the date they [sic] register as a Securities Trader Principal. Members, however, will be required to affirmatively register persons transitioning to the proposed registration category as Securities Trader Principals on or after the effective date of the proposed rule change.

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

[8] The Commission notes that amended Rule 640(a)(1) would require Series 57 registered persons to take the S101 General Program. *See* Rule 640(a)(1).

[9] Rule 611 provides that all persons engaged or to be engaged in the investment banking or securities business of a member organization who are to function as Principals shall be registered as such with the Exchange through WebCRD in the category of registration appropriate to the function to be performed as specified in the rule. It also defines ''Principal'' as including sole proprietors, officers, partners, managers of offices of supervisory jurisdiction, and corporate directors, in each case associated with a member organization who are actively engaged in the management of the member organization's investment banking or securities business, including supervision, solicitation, conduct of business or the training of persons associated with a member organization for any of these functions.

[10] Currently, under Rule 612(d), a Principal may register with the Exchange as a Limited Principal—Registered Options Principal (''Limited Options Principal'') if (A) his or her supervisory responsibilities in the investment banking and securities business are limited exclusively to the options activities of a member organization, (B) he or she is registered pursuant to Exchange Rules as a General Securities Representative, and (C) he or she is qualified to be so registered by passing the Series 4 examination. A person registered in the Limited Options Principal category solely on the basis of having passed the Series 4 examination for Limited Principal—Registered Options Principal may not function in a Principal capacity with responsibility over any area of business activity other than the options activities of a member organization. The Exchange proposes to permit Limited Options Principals who are functioning in a principal capacity at a member organization for which the Exchange is the designated examining authority on the effective date of this proposed rule change to register as Securities Trader Principals without having to take any additional examinations in order to minimize disruption to firms when the Securities Trader registration category becomes effective. The Exchange will waive the Series 24 examination requirement for these individuals so that they may be registered as Securities Trader Principals.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

system, and, in general to protect investors and the public interest. The Exchange believes that the requirements of the Securities Trader and Securities Trader Principal registration categories, as well as the new Securities Trader qualification examination, should help ensure that proprietary traders and the principals who supervise proprietary traders and proprietary trading are, and will continue to be, properly trained and qualified to perform their functions which should protect investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Implementation of the proposed changes to Phlx's registration rules in coordination with the FINRA Amendments does not present any competitive issues, but rather is designed to provide less burdensome and more efficient regulatory compliance for members and enhance the ability of the Exchange to fairly and efficiently regulate members, which will further enhance competition. Additionally, the proposed rule change should not affect intramarket competition because all similarly situated representatives and principals will be required to complete the same qualification examinations and maintain the same registrations. Finally, the proposed rule change does not impose any additional examination burdens on persons who are already registered. There is no obligation to take the proposed Series 57 examination in order to continue in their present duties, so the proposed rule change is not expected to disadvantage current registered persons relative to new entrants in this regard.

*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: (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–2015–92 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–Phlx–2015–92. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*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 Web site 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–Phlx–2015–92 and should be submitted on or before December 8, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–29213 Filed 11–16–15; 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. The Exchange has satisfied this requirement.

[15] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[SEC File No. 270–101, OMB Control No. 3235–0082]**

## 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:* Form 11–K.

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 this request for extension of the previously approved collection of information discussed below.

Form 11–K (17 CFR 249.311) is the annual report designed for use by employee stock purchase, savings and similar plans to comply with the reporting requirements under Section 15(d) of the Securities and Exchange Act of 1934 (the ''Exchange Act'') (15 U.S.C. 78o(d)). Section 15(d) establishes a periodic reporting obligation for every issuer of securities registered under the Securities Act of 1933 (the ''Securities Act'')(15 U.S.C. 77a *et seq.*). Form 11–K provides employees of an issuer with financial information so that they can

assess the performance of the stock plan or investment vehicle. The information collected must be filed with the Commission and is publicly available. Form 11–K takes approximately 30 hours per response and is filed by 1,761 respondents for total of 52,830 burden hours (30 hours per response × 1,761 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site, *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: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: November 10, 2015.

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–29203 Filed 11–16–15; 8:45 am]

BILLING CODE 8011–01–P

## SMALL BUSINESS ADMINISTRATION

### Data Collection Available for Public Comments

**ACTION:** 60–DAY notice and request for comments.

**SUMMARY:** The Small Business Administration (SBA) intends to request approval from the Office of Management and Budget (OMB) to reduce the approved collection of information for 8(a) Business Development (BD) Program applicants. The Paperwork Reduction Act (PRA) of 1995, 44 U.S.C Chapter 35 required federal agencies to publish a notice in the **Federal Register** concerning each proposed or changed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

**DATES:** Submit comments on or before January 19, 2016.

**ADDRESSES:** Send all comments to Melinda Edwards (*Melinda.Edwards@sba.gov),* Program Analyst, Office of Business Development, Small Business Administration, 409 3rd Street, 8th Floor, Washington, DC 20416.

**FOR FURTHER INFORMATION OR A COPY OF THE FORMS, CONTACT:** Melinda Edwards, Program Analyst, Office of Business Development, *Melinda.Edwards@sba.gov* 202–619–1843, or Curtis B. Rich, Management Analyst, 202–205–7030, *Curtis.Rich@sba.gov.*

**SUPPLEMENTARY INFORMATION:** The 8(a) BD Program is designed to enhance the business development of small business concerns owned and controlled by socially and economically disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business. Historically, over 2,000 entrepreneurs apply for 8(a) BD Program certification each year. Each year approximately 1,500 applications are returned without processing or withdrawn because they are incomplete. In an effort to increase the 8(a) BD Program's accessibility to socially and economically disadvantaged small business owners, SBA seeks to reduce the information collection and forms. The reduced collection of information is based directly on the 8(a) Program eligibility criteria in 13 Code of Federal Regulations (CFR) Part 124. SBA believes this initiative will reduce the administrative paperwork burden for 8(a) applicants while maintaining the integrity of the 8(a) BD Program.

#### Solicitation of Public Comments

SBA is requesting comments on (a) Whether the eliminated/reduced collection of information was necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to further minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

#### Summary of Information Collection:

*Title:* 8(a) Business Development Program Application.

*Description of Respondents:* 8(a) Program Participants.

*Form Number:* SBA Forms 413, 1010 and 1010IND.

*Total Estimated Annual Responses (413):* 5951.

*Total Estimated Annual Hour Burden (413):* 8927.

*Total Estimated Annual Responses (1010):* 2114.

*Total Estimated Annual Hour Burden (1010):* 3171.

*Total Estimated Annual Responses (1010–IND):* 1810.

*Total Estimated Annual Hour Burden (1010–IND):* 1810.

**Curtis B. Rich,**

*Management Analyst.*

[FR Doc. 2015–29192 Filed 11–16–15; 8:45 am]

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## SOCIAL SECURITY ADMINISTRATION

**[Docket No. SSA 2015–0016]**

### Privacy Act of 1974, as Amended; Computer Matching Program (SSA/Office of Child Support Enforcement (OCSE))—Match Number 1098

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Notice of a new computer matching program that will be implemented with OCSE.

**SUMMARY:** In accordance with the provisions of the Privacy Act, as amended, this notice announces a new computer matching program that we are currently will conduct with OCSE.

**DATES:** We will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate; the Committee on Oversight and Government Reform of the House of Representatives; and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

**ADDRESSES:** Interested parties may comment on this notice by either telefaxing to (410) 966–0869 or writing to the Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, Social Security Administration, 617 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

**FOR FURTHER INFORMATION CONTACT:** The Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, as shown above.

**SUPPLEMENTARY INFORMATION:**

#### A. General

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the conditions under which computer matching involving the Federal government could be performed and

adding certain protections for persons applying for, and receiving, Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such persons.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain approval of the matching agreement by the Data Integrity Boards of the participating Federal agencies;

(3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating, or denying a person's benefits or payments.

## B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of our computer matching programs comply with the requirements of the Privacy Act, as amended.

**Mary Ann Zimmerman,**

*Acting Executive Director, Office of Privacy and Disclosure, Office of the General Counsel.*

## Notice of Computer Matching Program, SSA With the Office of Child Support Enforcement (OCSE)

### A. PARTICIPATING AGENCIES

SSA and OCSE.

### B. PURPOSE OF THE MATCHING PROGRAM

The purpose of this matching program is to govern a matching program between the OCSE and us. The agreement covers the Quarterly Wage and Unemployment Insurance batch match for Title II Disability Insurance (DI). This agreement also governs the use, treatment, and safeguarding of the information exchanged. OCSE is the ''source agency'' and we are the ''recipient agency,'' as defined by the Privacy Act. 5 U.S.C. 552a(a)(9) and (11).

We will use the quarterly wage and unemployment insurance information from OCSE to establish or verify eligibility, continuing entitlement, or payment amounts, or all of the above, of individuals under the DI program.

### C. AUTHORITY FOR CONDUCTING THE MATCHING PROGRAM

The legal authority for disclosures under this agreement are: (1) 453(j)(4) of the Social Security Act (Act) which provides that OCSE shall provide our Commissioner with all information in the National Directory of New Hires (NDNH). 42 U.S.C. 653(j)(4); and (2) 224(h)(1) of the Act provides that the head of any Federal agency shall provide information within its possession as our Commissioner may require for purposes of making a timely determination of the amount of the reduction, if any, required by section 224 in benefits payable under Title II of the Act. 42 U.S.C. 424a(h). Disclosures under this agreement shall be made in accordance with 5 U.S.C. 552a(b)(3), and in compliance with the matching procedures in 5 U.S.C. 552a(o), (p), and (r).

### D. CATEGORIES OF RECORDS AND PERSONS COVERED BY THE MATCHING PROGRAM

*Systems of Records (SOR):* We published notice of the relevant SORs in the **Federal Register**. Our SORs are the Master Beneficiary Record (MBR), SSA/ORSIS 60–0090 last published January 11, 2006 at 72 FR 1826; and the Completed Determination Record-Continuing Disability Determination file (CDR–CDD), SSA/OD 60–0050 last published January 11, 2006 at 72 FR 1813.

OCSE will match our information in the MBR and CDR–CDD against the quarterly wage and unemployment insurance information furnished by state and federal agencies maintained in its SOR ''OCSE National Directory of New Hires'' (NDNH), No. 09–80–0381, established by publication in the **Federal Register** on January 5, 2011 at 76 FR 560. Routine use (9) of the system of records authorizes disclosure of NDNH information to SSA, 76 FR 560, 562 (January 5, 2011).

*Data Elements Used in the Matching Program:* We will provide electronically to OCSE the following data elements in the finder file of DI beneficiaries: Individual's SSN and Name. *OCSE will provide electronically to us the following data elements from the NDNH in the quarterly wage file:* Quarterly wage record identifier, For employees: (1) Name (first, middle, last), (2) SSN, (3) Verification request code, (4) Processed date, (5) Non-verifiable indicator, (6) Wage amount, and (7) Reporting period; For employers of individuals in the quarterly wage file of the NDNH: (1) Name, (2) Employer identification number, and (3) Address(es); Transmitter agency code, Transmitter state code, and State or agency name. *OCSE will provide electronically to us the following data elements from the NDNH in the unemployment insurance file:* Unemployment insurance record identifier, Processed date, SSN, Verification request code, Name (first, middle, last), Address, Unemployment insurance benefit amount, Reporting period, Transmitter agency code, Transmitter state code, and State or agency name.

### E. INCLUSIVE DATES OF THE MATCHING PROGRAM

The effective date of this matching program is November 1, 2015; provided that the following notice periods have lapsed: 30 days after publication of this notice in the **Federal Register** and 40 days after notice of the matching program is sent to Congress and OMB. The matching program will continue for 18 months from the effective date and, if both agencies meet certain conditions, it may extend for an additional 12 months thereafter.

[FR Doc. 2015–29283 Filed 11–16–15; 8:45 am]

BILLING CODE 4191–02–P

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# SOCIAL SECURITY ADMINISTRATION

**[Docket No: SSA–2015–0067]**

## Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions and extensions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB)

Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–

395–6974, Email address: *OIRA_Submission@omb.eop.gov*.

(SSA)

Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235. Fax: 410–966–2830. Email address: *OR.Reports.Clearance@ssa.gov*.

Or you may submit your comments online through *www.regulations.gov,* referencing Docket ID Number [SSA–2015–0067].

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than January 19, 2016. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. Certificate of Responsibility for Welfare and Care of Child Not in Applicant's Custody—20 CFR 404.330, 404.339–404.341 and 404.348–404.349—0960–0019. Under the provisions of the Social Security Act (Act), non-custodial parents who are filing for spouse, mother, or father Social Security benefits based on having the child of a number holder or worker in their care, must meet the in-care requirements the Act discusses. The in-care provision requires claimants to have an entitled child under age 16 or disabled in their care. SSA uses Form SSA–781, Certificate of Responsibility for Welfare and Care of Child in Applicant's Custody, to determine if claimants meet the requirement. The respondents are applicants for spouse, mother's or father's Social Security benefits.

*Type of Request*: Revision of an OMB-approved information collection.

| Modality of completion | Number of respondents | Frequency of response | Average burden per response (minutes) | Estimated total annual burden (hours) |
|---|---|---|---|---|
| SSA–781 | 14,000 | 1 | 10 | 2,333 |

2. Request for Change in Time/Place of Disability Hearing—20 CFR 404.914(c)(2) and 416.1414(c)(2)—0960–0348. At the request of the claimants or their representative, SSA schedules evidentiary hearings at the reconsideration level for claimants of Title II benefits or Title XVI payments when we deny their claims for disability. When claimants or their representatives find they are unable to attend the scheduled hearing, they complete Form SSA–769 to request a change in time or place of the hearing. SSA uses the information as a basis for granting or denying requests for changes and for rescheduling disability hearings. Respondents are claimants or their representatives who wish to request a change in the time or place of their hearing.

*Type of Request*: Revision of an OMB-approved information collection.

| Modality of completion | Number of respondents | Frequency of response | Average burden per response (minutes) | Estimated total annual burden (hours) |
|---|---|---|---|---|
| SSA–769–U4 | 7,483 | 1 | 8 | 998 |

3. Notice Regarding Substitution of Party Upon Death of Claimant—Reconsideration of Disability Cessation—20 CFR 404.907–404.921 and 416.1407–416.1421—0960–0351. When a claimant dies before we make a determination on that person's request for reconsideration of a disability cessation, SSA seeks a qualified substitute party to pursue the appeal. If SSA locates a qualified substitute party, the agency uses Form SSA–770 to collect information about whether to pursue or withdraw the reconsideration request. We use this information as the basis for the decision to continue or discontinue with the appeals process. Respondents are substitute applicants who are pursuing a reconsideration request for a deceased claimant.

*Type of Request*: Revision of an OMB-approved information collection.

| Modality of completion | Number of respondents | Frequency of response | Average burden per response (minutes) | Estimated total annual burden (hours) |
|---|---|---|---|---|
| SSA–770 | 1,200 | 1 | 5 | 100 |

4. Beneficiary Interview and Auditor's Observations Form—0960–0630. SSA's Office of the Inspector General collects information from Form SSA–322, the Beneficiary Interview and Auditor's Observation form, to interview beneficiaries or their payees to determine whether they are complying with their duties and responsibilities. The respondents are randomly selected Supplemental Security Income (SSI) recipients and Social Security beneficiaries who have representative payees.

*Type of Request*: Revision of previously approved collection.

| Modality of completion | Number of respondents | Frequency of response | Average burden per response (minutes) | Estimated total annual burden (hours) |
|---|---|---|---|---|
| SSA–322 | 1,000 | 1 | 15 | 250 |

II. SSA submitted the information collections below to OMB for clearance. Your comments regarding the information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than December 17, 2015. Individuals can obtain copies of the OMB clearance packages by writing to *OR.Reports.Clearance@ssa.gov*.

1. Authorization for the Social Security Administration to Obtain Account Records from a Financial Institution—20 CFR 416.200 and 416.203—0960–0293. SSA collects and verifies financial information from individuals applying for SSI payments to determine if the applicant meets the SSI resource eligibility requirements. If the SSI claimants provide incomplete, unavailable, or seemingly altered records, SSA contacts their financial institutions to verify the existence, ownership, and value of accounts owned. Financial institutions require individuals to sign Form SSA–4641–F4, or complete one of SSA's electronic applications, e4641 or the Access to Financial Institutions (AFI) screens, to authorize them to disclose records to SSA. The respondents are SSI applicants, recipients, and their deemors.

*Type of Request:* Revision of an OMB-approved information collection.

| Modality of completion | Number of respondents | Frequency of response | Average burden per response (minutes) | Estimated total annual burden (hours) |
|---|---|---|---|---|
| SSA–4641 (paper) | 252,500 | 1 | 6 | 25,250 |
| e4641 and AFI (electronic) | 15,747,500 | 1 | 2 | 524,917 |
| Totals | 16,000,000 | | | 550,167 |

2. Surveys in Accordance with E.O. 12862 for the Social Security Administration—0960–0526. Under the auspices of Executive Order 12862, Setting Customer Service Standards, SSA conducts multiple customer satisfaction surveys each year. These voluntary customer satisfaction assessments include paper, Internet, and telephone surveys; mailed questionnaires; and customer comment cards. The purpose of these questionnaires is to assess customer satisfaction with the timeliness, appropriateness, access, and overall quality of existing SSA services and proposed modifications or new versions of services. The respondents are recipients of SSA services (including most members of the public), professionals, and individuals who work on behalf of SSA beneficiaries.

*Type of Request:* Extension of an OMB-approved information collection.

| | Number of respondents | Frequency of response | Average burden per response (minutes) | Estimated total annual burden (hours) |
|---|---|---|---|---|
| Year 1 | 9,164,640 | 1 | 3–30 | 1,346,904 |
| Year 2 | 9,170,140 | 1 | 3–30 | 1,347,404 |
| Year 3 | 9,175,640 | 1 | 3–30 | 1,348,504 |
| Totals | 27,510,420 | | | 4,042,812 |

3. The Ticket to Work and Self-Sufficiency Program—20 CFR 411—0960–0644. SSA's Ticket to Work (TTW) Program transitions Social Security Disability Insurance (SSDI) and SSI recipients toward independence by allowing them to receive Social Security payments while maintaining employment under the auspices of the program. SSA uses service providers, called Employment Networks (ENs), to supervise participant progress through the stages of TTW Program participation, such as job searches and interviews, progress reviews, and changes in ticket status. ENs can be private for-profit and nonprofit organizations, as well as state vocational rehabilitation agencies (VRs). SSA and the ENs utilize the TTW program manager to operate the TTW Program and exchange information about participants. For example, the ENs use the program manager to provide updates on tasks such as selecting a payment system or requesting payments for helping the beneficiary achieve certain work goals. Since the ENs are not PRA-exempt, the multiple information collections within the TTW program manager require OMB approval, and we clear them under this information collection request (ICR). Most of the categories of information in this ICR are necessary for SSA to: (1) Comply with the Ticket to Work legislation; and (2) provide proper oversight of the program. SSA collects this information through several modalities, including forms, electronic exchanges, and written documentation. The respondents are the ENs or state VRs, as well as SSDI beneficiaries and blind or disabled SSI recipients working under the auspices of the TTW Program.

*Type of Request:* Revision of an OMB-approved information collection.

| Modality of completion | Number of respondents | Frequency of response | Average burden per response (minutes) | Estimated total annual burden (hours) |
|---|---|---|---|---|
| a) 20 CFR 411.140(d)(2)—Interactive Voice Recognition Telephone | 6,428 | 1 | 2.5 | 268 |
| a) 20 CFR 411.140(d)(2)—Portal | 25,713 | 1 | 1.25 | 536 |
| a) 20 CFR 411.140(d)(3)—Virtual Job Fair Registration-Employment Networks | 500 | 1 | 10 | 83 |
| a) 20 CFR 411.140(d)(3); 411.325(a); 411.150(b)(3)—SSA–1365 | 948 | 1 | 15 | 237 |
| a) 20 CFR 411.140(d)(3); 411.325(a); 411.150(b)(3)—SSA–1365 Portal | 3,792 | 1 | 11 | 695 |
| a) 20 CFR 411.140(d)(3); 411.325(a); 411.150(b)(3)—SSA–1370 | 1,956 | 1 | 60 | 1,956 |
| a) 20 CFR 411.140(d)(3); 411.325(a); 411.150(b)(3)—SSA–1370 Portal | 5,868 | 1 | 10 | 978 |
| a) 20 CFR 411.166; 411.170(b)—Electronic File Submission | 40,324 | 1 | 5 | 3,360 |
| b) 20 CFR 411.145; 411.325 | 2,494 | 1 | 15 | 624 |
| b) 20 CFR 411.145; 411.325—Portal | 7,481 | 1 | 11 | 1,372 |
| b) 20 CFR 411.535(a)(1)(iii)—Data Sharing/Portal | 8,505 | 1 | 5 | 709 |
| c) 20 CFR 411.192(b)&(c) | 6 | 1 | 30 | 3 |
| c) 20 CFR 411.200(b)—SSA–1375 | 112,362 | 1 | 15 | 28,091 |
| c) 20 CFR 411.200(b)—Portal | 64,824 | 1 | 5 | 5,402 |
| c) 20 CFR 411.210(b) | 41 | 1 | 30 | 21 |
| c) 20 CFR 411.200(b) Wise Webinar Registration Page | 24,000 | 1 | 3 | 1,200 |
| c) 20 CFR 411.200(b) Virtual Job Fair Registration | 9,000 | 1 | 10 | 1,500 |
| d) 20 CFR 411.365; 411.505; 411.515 | 6 | 1 | 10 | 1 |
| e) 20 CFR 411.325(d); 411.415 | 1* | 1 | 480 | 8 |
| f) 20 CFR 411.575—SSA–1389; SSA–1391; SSA–1393; SSA–1396; SSA–1398; SSA–1399 | 2,805 | 1 | 40 | 1,870 |
| f) 20 CFR 411.575—Portal | 42,075 | 1 | 22 | 15,427 |
| f) 20 CFR 411.575—Automatic Payments | 11,220 | 1 | 0 | 0 |
| f) 20 CFR 411.560—SSA–1401 | 100 | 1 | 20 | 33 |
| g) 20 CFR 411.325(f) | 1,371 | 1 | 45 | 1,028 |
| h) 20 CFR 411.435; 411.615; 411.625 | 2 | 1 | 120 | 4 |
| i) 20 CFR 411.320—SSA–1394 | 52 | 1 | 10 | 9 |
| i) 20 CFR 411.320—SSA–1394 Portal | 158 | 1 | 5 | 13 |
| Totals | 372,032 | | | 65,428 |

* (None received in 2012, 2013, 2014)

4. Representative Payment Policies and Administrative Procedures for Imposing Penalties for False or Misleading Statements or Withholding of Information—0960–0740. This information collection request comprises several regulation sections that provide additional safeguards for Social Security beneficiaries' whose representative payees receive their payment. SSA requires representative payees to notify them of any event or change in circumstances that would affect receipt of benefits or performance of payee duties. SSA uses the information to determine continued eligibility for benefits, the amount of benefits due and if the payee is suitable to continue servicing as payee. The respondents are representative payees who receive and use benefits on behalf of Social Security beneficiaries.

*Type of Collection:* Extension of an OMB-approved information collection.

| Regulation section | Number of respondents | Frequency of response | Average burden per response (minutes) | Estimated total annual burden (hours) |
|---|---|---|---|---|
| 404.2035(d)—Paper/Mail | 28,600 | 1 | 5 | 2,383 |
| 404.2035(d)—Office interview/Intranet | 543,400 | 1 | 5 | 45,283 |
| 404.2035(f)—Paper/Mail | 286 | 1 | 5 | 24 |
| 404.2035(f)—Office interview/Intranet | 5,434 | 1 | 5 | 453 |
| 416.635(d)—Paper/Mail | 15,600 | 1 | 5 | 1,300 |
| 416.635(d)—Office interview/Intranet | 286,400 | 1 | 5 | 23,867 |
| 416.635(f)—Paper/Mail | 156 | 1 | 5 | 13 |
| 416.635(f)—Office interview/Intranet | 2,964 | 1 | 5 | 247 |
| Total | 882,840 | | - | 73,570 |

Dated: November 11, 2015.

**Naomi R. Sipple,**

*Reports Clearance Officer, Social Security Administration.*

[FR Doc. 2015–29269 Filed 11–16–15; 8:45 am]

**BILLING CODE 4191–02–P**

## DEPARTMENT OF STATE

**[Public Notice: 9344]**

### Culturally Significant Objects Imported for Exhibition Determinations: ''Marcel Broodthaers'' Exhibition

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''Marcel Broodthaers,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The Museum of Modern Art, New York, New York, from on about February 14, 2016, until on or about May 15, 2016, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including a list of the imported objects, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Dated: November 10, 2015.

**Mara Tekach,**

*Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 2015–29362 Filed 11–16–15; 8:45 am]

BILLING CODE 4710–05–P

## DEPARTMENT OF STATE

**[Public Notice: 9346]**

### U.S. Advisory Commission on Public Diplomacy: Notice of Meeting

The U.S. Advisory Commission on Public Diplomacy will hold a public meeting from 10:00 a.m. until 11:30 a.m., Wednesday, December 2, 2014 in Room 106 of the Dirksen Senate Office Building, at the corner of First Street and Constitution Ave. NE., Washington, DC 20002.

The meeting's topic will be ''New Strategic Direction for International Broadcasting Activities'' and will feature the Broadcasting Board of Governors' new Chief Executive Office, John Lansing. Other representatives from BBG and the State Department will also be in attendance.

This meeting is open to the public, Members and staff of Congress, the State Department, Defense Department, the media, and other governmental and non-governmental organizations. To attend and make any requests for reasonable accommodation, email *pdcommission@state.gov* by 5 p.m. on Tuesday, December 1, 2015. Please arrive for the meeting by 9:45 a.m. to allow for a prompt meeting start.

The United States Advisory Commission on Public Diplomacy appraises U.S. Government activities intended to understand, inform, and influence foreign publics. The Advisory Commission may conduct studies, inquiries, and meetings, as it deems necessary. It may assemble and disseminate information and issue reports and other publications, subject to the approval of the Chairperson, in consultation with the Executive Director. The Advisory Commission may undertake foreign travel in pursuit of its studies and coordinate, sponsor, or oversee projects, studies, events, or other activities that it deems desirable and necessary in fulfilling its functions.

The Commission consists of seven members appointed by the President, by and with the advice and consent of the Senate. The members of the Commission shall represent the public interest and shall be selected from a cross section of educational, communications, cultural, scientific, technical, public service, labor, business, and professional backgrounds. Not more than four members shall be from any one political party. The President designates a member to chair the Commission.

The current members of the Commission are: Mr. William Hybl of Colorado, Chairman; Ambassador Lyndon Olson of Texas, Vice Chairman; Mr. Sim Farar of California, Vice Chairman; Ambassador Penne Korth-Peacock of Texas; Ms. Lezlee Westine of Virginia; and Anne Terman Wedner of Illinois. One seat on the Commission is currently vacant.

To request further information about the meeting or the U.S. Advisory Commission on Public Diplomacy, you may contact its Executive Director, Katherine Brown, at *BrownKA4@state.gov*.

Dated: November 10, 2015.

**Katherine Brown,**

*Executive Director, Department of State.*

[FR Doc. 2015–29365 Filed 11–16–15; 8:45 am]

BILLING CODE 4710–45–P

## DEPARTMENT OF STATE

**[Public Notice: 9347]**

### International Security Advisory Board (ISAB) Meeting Notice

**Closed Meeting**

In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App § 10(a)(2), the Department of State announces a meeting of the International Security Advisory Board (ISAB) to take place on January 20, 2016, at the Department of State, Washington, DC.

Pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App § 10(d), and 5 U.S.C. 552b(c)(1), it has been determined that this Board meeting will be closed to the public because the Board will be reviewing and discussing matters properly classified in accordance with Executive Order 13526. The purpose of the ISAB is to provide the Department with a continuing source of independent advice on all aspects of arms control, disarmament, nonproliferation, political-military affairs, international security, and related aspects of public diplomacy. The agenda for this meeting will include classified discussions related to the Board's studies on current U.S. policy and issues regarding arms control, international security, nuclear proliferation, and diplomacy.

For more information, contact Christopher Herrick, Acting Executive Director of the International Security Advisory Board, U.S. Department of State, Washington, DC 20520, telephone: (202) 647–9683.

Dated: November 3, 2015.

**Christopher Herrick,**

*Acting Executive Director, International Security Advisory Board, U.S. Department of State.*

[FR Doc. 2015–29330 Filed 11–16–15; 8:45 am]

BILLING CODE 4710–27–P

## DEPARTMENT OF STATE

**[PUBLIC NOTICE: 9345]**

### Culturally Significant Objects Imported for Exhibition Determinations: ''The Golden Age of King Midas'' Exhibition

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''The Golden Age of King Midas,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the University of Pennsylvania Museum of Archaeology and Anthropology (Penn Museum), Philadelphia, Pennsylvania, from on or about February 13, 2016, until on or about November 27, 2016, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including a list of the imported objects, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Dated: November 10, 2015.

**Mara Tekach,**

*Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 2015–29358 Filed 11–16–15; 8:45 am]

BILLING CODE 4710–05–P

## SUSQUEHANNA RIVER BASIN COMMISSION

### Projects Rescinded for Consumptive Uses of Water

**AGENCY:** Susquehanna River Basin Commission.

**ACTION:** Notice.

**SUMMARY:** This notice lists the approved by rule projects rescinded by the Susquehanna River Basin Commission during the period set forth in **DATES**.

**DATES:** August 1–31, 2015.

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

**FOR FURTHER INFORMATION CONTACT:** Jason E. Oyler, General Counsel, telephone: (717) 238–0423, ext. 1312; fax: (717) 238–2436; email: *joyler@srbc.net.* Regular mail inquiries may be sent to the above address.

**SUPPLEMENTARY INFORMATION:** This notice lists the projects, described below, being rescinded for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR 806.22(e) and 806.22(f) for the time period specified above:

**Rescinded ABR Issued August 1–31, 2015**

1. Inflection Energy (PA), LLC, Pad ID: Eichenlaub A Pad, ABR–201206014, Upper Fairfield Township, Lycoming County, Pa.; Rescind Date: August 3, 2015.
2. Inflection Energy (PA), LLC, Pad ID: Iffland, ABR–201206015, Upper Fairfield Township, Lycoming County, Pa.; Rescind Date: August 3, 2015.
3. Inflection Energy (PA), LLC, Pad ID: G. Adams, ABR–201206012, Mill Creek Township, Lycoming County, Pa.; Rescind Date: August 3, 2015.
4. Inflection Energy (PA), LLC, Pad ID: Harris RE Trust, ABR–201207008, Fairfield Township, Lycoming County, Pa.; Rescind Date: August 3, 2015.
5. Inflection Energy (PA), LLC, Pad ID: Mussina, ABR–201207001, Fairfield Township, Lycoming County, Pa.; Rescind Date: August 3, 2015.
6. Tenaska Resources, LLC, Pad ID: Merlin, ABR–201012045, Sullivan Township, Tioga County, Pa.; Rescind Date: August 4, 2015.
7. EOG Resources, Inc., Pad ID: Haven 2H, ABR–201008094, Springfield Township, Bradford County, Pa.; Rescind Date: August 12, 2015.
8. EOG Resources, Inc., Pad ID: Kennedy A Pad, ABR–201302001, Smithfield Township, Bradford County, Pa.; Rescind Date: August 12, 2015.
9. EOG Resources, Inc., Pad ID: Kingsley 5HA/6HA Pad, ABR–201110028, Springfield Township, Bradford County, Pa.; Rescind Date: August 12, 2015.
10. EOG Resources, Inc., Pad ID: Plouse A Pad, ABR–201210014, Ridgebury Township, Bradford County, Pa.; Rescind Date: August 12, 2015.
11. EOG Resources, Inc., Pad ID: SGL 90E Pad, ABR–201011025, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 12, 2015.

**Authority:** Pub. L. 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806, 807, and 808.

Dated: November 10, 2015.

**Stephanie L. Richardson,**

*Secretary to the Commission.*

[FR Doc. 2015–29236 Filed 11–16–15; 8:45 am]

BILLING CODE 7040–01–P

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

### Generalized System of Preferences (GSP): Import Statistics Relating to Competitive Need Limitations (CNLs) and Extension of Deadline for Filing Petitions for 2015 CNLs Waivers

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice and related extension of deadline.

**SUMMARY:** This notice is to inform the public of the availability of import statistics for the first nine months of 2015 relating to competitive need limitations (CNLs) under the Generalized System of Preferences (GSP) program. These import statistics identify some articles for which the 2015 trade levels may exceed statutory CNLs. Interested parties may find this information useful in deciding whether to submit a petition to waive the CNLs for individual beneficiary developing countries (BDCs) with respect to specific GSP-eligible articles. This notice also extends the deadline for submission of petitions to waive CNLs for individual BDCs with respect to GSP-eligible articles to 5 p.m., Friday, December 4, 2015.

**FOR FURTHER INFORMATION CONTACT:** Aimee Larsen, Director for GSP, Office of the United States Trade Representative, 600 17th Street NW., Washington, DC 20508. The telephone number is (202) 395–2974 and the email address is *ALarsen@ustr.eop.gov.*

**SUPPLEMENTARY INFORMATION:**

#### I. Competitive Need Limitations

The GSP program provides for the duty-free importation of designated articles when imported from designated BDCs. The GSP program is authorized by Title V of the Trade Act of 1974 (19 U.S.C. 2461, *et seq.*), as amended (the ''1974 Act''), and is implemented in accordance with Executive Order 11888 of November 24, 1975, as modified by subsequent Executive Orders and Presidential Proclamations.

Section 503(c)(2)(A) of the 1974 Act sets out the two different measures for CNLs. When the President determines that a BDC has exported to the United States during a calendar year either (1) a quantity of a GSP-eligible article having a value in excess of the applicable amount for that year ($170 million for 2015), or (2) a quantity of a GSP-eligible article having a value equal to or greater than 50 percent of the value of total U.S. imports of the article from all countries (the ''50 percent CNL''), the President must terminate GSP duty-free treatment for that article from that BDC by no later than July 1 of the next calendar year, unless the President grants a waiver before the exclusion goes into effect. CNLs do not apply to least-developed countries or beneficiaries of the African Growth and Opportunity Act.

Any interested party may submit a petition seeking a waiver of the 2015 CNL for individual beneficiary developing countries with respect to specific GSP-eligible articles. In addition, under section 503(c)(2)(F) of the 1974 Act, the President may waive the 50 percent CNL with respect to an eligible article imported from a BDC, if the value of total imports of that article from all countries during the calendar year did not exceed the applicable *de minimis* amount for that year ($22.5 million for 2015).

## II. Implementation of Competitive Need Limitations

Exclusions from GSP duty-free treatment where CNLs have been exceeded will be effective July 1, 2016, unless the President grants a waiver before the exclusion goes into effect. Exclusions for exceeding a CNL will be based on full 2015 calendar-year import statistics.

## III. Interim 2015 Import Statistics

In order to provide advance notice of articles that may exceed the CNLs for 2015, the Office of the U.S. Trade Representative has compiled interim import statistics for the first nine months of 2015 relating to CNLs. This information can be viewed at: *https://ustr.gov/issue-areas/preference-programs/generalized-system-preferences-gsp/current-reviews/gsp-2015-annual.*

Full calendar-year 2015 data for individual tariff subheadings will be available in February 2016 on the Web site of the U.S. International Trade Commission at *http://dataweb.usitc.gov/.*

The interim 2015 import statistics are organized to show, for each article, the Harmonized Tariff Schedule of the United States (HTSUS) subheading and BDC of origin, the value of imports of the article from the specified country for the first nine months of 2015, and the corresponding share of total imports of that article from all countries. The list includes the GSP-eligible articles from BDCs that, based on interim, nine-month 2015 data, exceed $110 million dollars, or an amount greater than 42 percent of the total value of U.S. imports of that product. In all, the following 19 products met the criteria to be placed on the list:

- 0410.00.00—Other edible products of animal origin (Indonesia)
- 0804.10.60—Pitted dates (Tunisia)
- 1102.90.25– Rice flour (Thailand)
- 1509.10.40—Virgin olive oil (Tunisia)
- 2102.20.60—Single-cell micro-organisms, dead, excluding yeasts (Brazil)
- 2202.90.90—Other nonalcoholic beverages (Thailand)
- 2804.29.00—Rare gases, other than argon (Ukraine)
- 2934.99.47—Nonaromatic drugs of other heterocyclic compounds (India)
- 3917.31.00—Flexible plastic tubes, pipes, and hoses (Brazil)
- 4202.92.04—Insulated beverage bag w/o surface textiles (Philippines)
- 4409.10.05—Coniferous wood continuously shaped along any of its ends (Brazil)
- 6911.10.37—Porcelain or non-bone china, household table & kitchenware sets (Indonesia)
- 7307.21.50—Stainless steel, not cast, flanges for tubes/pipes (India)
- 7307.91.50—Iron or steel (o/than stainless), not cast, flanges for tubes/pipes (India)
- 7325.91.00—Iron or steel, cast grinding balls and similar articles for mills (India)
- 8525.80.30—Other television cameras (Thailand)
- 8544.19.00—Insulated (including enameled or anodized) winding wire (Venezuela)
- 8708.50.95—Parts & accessories of motor vehicles, half shafts (India)
- 9001.50.00—Spectacle lenses of materials other than glass (Thailand)

The list published on the USTR Web site includes the relevant nine-month trade statistics for each of these products and is provided as a courtesy for informational purposes only. The list is based on interim 2015 trade data, and may not include all articles that may be affected by the GSP CNLs. Regardless of whether or not an article is included on the list referenced in this notice, all determinations and decisions regarding application of the CNLs of the GSP program will be based on full calendar-year 2015 import data for each GSP-eligible article. Each interested party is advised to conduct its own review of 2015 import data with regard to the possible application of GSP CNLs. Please see the notice announcing the 2015 GSP Review which was published in the **Federal Register** on August 19, 2015, regarding submission of product petitions requesting a waiver of a CNL. The notice is available at *http://www.regulations.gov/#!documentDetail;D=USTR-2015-0013-0001.*

**William D. Jackson,**

*Deputy Assistant U.S. Trade Representative for the GSP Program, Chairman, GSP Subcommittee of the Trade Policy Staff Committee.*

[FR Doc. 2015–29233 Filed 11–16–15; 8:45 am]

BILLING CODE 3290–F6–P

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## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

### Notice of Meeting of the Transit Advisory Committee for Safety (TRACS)

**AGENCY:** Federal Transit Administration (FTA), DOT.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice announces a public meeting via teleconference of the Transit Advisory Committee for Safety (TRACS). TRACS is a Federal Advisory Committee established by the U.S. Secretary of Transportation (the Secretary) in accordance with the Federal Advisory Committee Act to provide information, advice, and recommendations to the Secretary and the Federal Transit Administrator on matters relating to the safety of public transportation systems.

**DATES:** The TRACS meeting will be held on December 1, 2015, from 1 p.m.–4 p.m. (EST). Contact Bridget Zamperini (see contact information below) on or before November 27, 2015, if you wish to participate.

**ADDRESSES:** The meeting will be conducted via computer based meeting software and/or teleconference and is open for public participation. Instructions for accessing the meeting will be provided to all participants who pre-register with the Federal Transit Administration (FTA) before the start of the meeting.

**FOR FURTHER INFORMATION CONTACT:** Bridget Zamperini, Federal Transit Administration, Office of Transit Safety and Oversight, at (202) 366–0306 or *TRACS@dot.gov.*

**SUPPLEMENTARY INFORMATION:** This notice is provided in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. 2). As noted above, TRACS is a Federal Advisory Committee established to provide information, advice, and recommendations to the Secretary and the Administrator of the Federal Transit Administration (FTA) on matters relating to the safety of public transportation systems. TRACS is currently composed of 28 members representing a broad base of expertise necessary to discharge its responsibilities. The tentative agenda for this meeting of TRACS is set forth below:

## Agenda

(1) Welcome Remarks/Introductions
(2) Previously Issued Recommendations
(3) Organizational and Activity Update from the FTA Office of Transit Safety and Oversight (TSO)
(4) Public Comments
(5) Wrap Up

As previously noted, this meeting will be accessible to the public. Persons wishing to participate must contact Bridget Zamperini, Federal Transit Administration, Office of Transit Safety and Oversight, at (202) 366–0306 or *TRACS@dot.gov* on or before November 27, 2015, to receive the information necessary to access the virtual meeting. Members of the public who wish to make an oral statement during the meeting or require special accommodations are also directed to make a request to Bridget Zamperini at (202) 366–0306 or *TRACS@dot.gov* on or before November 27, 2015. Provisions will be made to include oral statements on the agenda, if needed. Members of the public may submit written comments or suggestions concerning the activities of TRACS at any time before or after the meeting at *TRACS@dot.gov,* or to the attention of Bridget Zamperini at the U.S. Department of Transportation, Federal Transit Administration, Office of Transit Safety and Oversight, Room E45–310, 1200 New Jersey Avenue SE., Washington, DC 20590. Information from the meeting will be posted on FTA's public Web site at *http://www.fta.dot.gov/about/13099.html.* Written comments submitted to TRACS will also be posted at the above Web address.

**Therese W. McMillan,**

*Acting Administrator.*

[FR Doc. 2015–29178 Filed 11–16–15; 8:45 am]

BILLING CODE P

# DEPARTMENT OF TRANSPORTATION

## Maritime Administration

## Meeting Notice—U.S. Marine Transportation System National Advisory Council

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Notice of advisory council public meeting.

**SUMMARY:** The Maritime Administration (MARAD) announces a public meeting of its U.S. Marine Transportation System National Advisory Council (MTSNAC or Council) to discuss advice and recommendations it would like to provide to the U.S. Department of Transportation for consideration on the development of a National Maritime Strategy, integration of Marine Highways into the national transportation system and options to provide a steady and reliable funding mechanism for port infrastructure development.

**DATES:** The meeting will be held on Tuesday, December 1, 2015 from 10:00 a.m. to 4:00 p.m., Eastern Standard Time.

**ADDRESSES:** The meeting will be held at the U.S. Department of Transportation, Federal Motor Carrier Safety Administration, National Training Center, 1310 N. Courthouse Road, Suite 600, Arlington, VA 22201–2508.

**FOR FURTHER INFORMATION CONTACT:** Tretha Chromey, Acting Designated Federal Officer at (202) 366–1630 or *MTSNAC@dot.gov* or visit the MTSNAC Web site at *http://www.marad.dot.gov/ports/marine-transportation-system-mts/marine-transportation-system-national-advisory-committee-mtsnac/.*

**SUPPLEMENTARY INFORMATION:** The MTSNAC is a Federal advisory committee within MARAD that advises the U.S. Department of Transportation on issues related to the marine transportation system. The MTSNAC was originally established in 1999 and mandated in 2007 by the Energy Independence and Security Act of 2007. The MTSNAC operates in accordance with the provisions of the Federal Advisory Committee Act (FACA).

## Agenda

The agenda will include: (1) Welcome, opening remarks and introductions; (2) MTSNAC members discussion on a National Maritime Strategy; (3) subcommittee updates and proposed recommendations and (4) public comment. The meeting agenda will be posted on the MTSNAC Web site at *http://www.marad.dot.gov/ports/marine-transportation-system-mts/marine-transportation-system-national-advisory-committee-mtsnac/.*

## Public Participation

The meeting will be open to the public. Members of the public who wish to attend in person are asked to RSVP to *MTSNAC@dot.gov* with your name and affiliation no later than November 23, 2015, in order to facilitate entry and guarantee seating.

*Services for Individuals with Disabilities:* The public meeting is physically accessible to people with disabilities. Individuals requiring accommodations, such as sign language interpretation or other ancillary aids are asked to notify Ms. Tretha Chromey, at (202) 366–1630 or *MTSNAC@dot.gov* five (5) business days before the meeting.

*Written comments:* Persons who wish to submit written comments for consideration by the Council must email *MTSNAC@dot.gov,* or send them to Ms. Tretha Chromey, Acting Designated Federal Officer, Marine Transportation System National Advisory Council, 1200 New Jersey Avenue SE., W21–306, Washington, DC 20590 by November 23, 2015 to provide sufficient time for review. All other comments may be received at any time before or after the meeting.

**Authority:** 49 CFR part 1.93(a); 5 U.S.C. 552b; 41 CFR parts 102–3; 5 U.S.C. app. Sections 1–16.

* * * * *

By Order of the Maritime Administrator.

Dated: November 10, 2015.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2015–29193 Filed 11–16–15; 8:45 am]

BILLING CODE 4910–81–P

# DEPARTMENT OF THE TREASURY

## Office of the Comptroller of the Currency

## Agency Information Collection Activities: Revision of an Approved Information Collection; Comment Request; Company-Run Annual Stress Test Reporting Template and Documentation for Covered Institutions With Total Consolidated Assets of $50 Billion or More Under the Dodd-Frank Wall Street Reform and Consumer Protection Act

**AGENCY:** Office of the Comptroller of the Currency, Treasury (OCC).

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

**SUMMARY:** The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on a revision to this information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. Currently, the OCC is soliciting comment concerning a revision to a regulatory reporting requirement for national banks and federal savings associations titled, ''Company-Run Annual Stress Test Reporting Template and Documentation for Covered Institutions with Total Consolidated Assets of $50 Billion or More under the Dodd-Frank Wall Street Reform and Consumer Protection Act.''

**DATES:** Comments must be received by January 19, 2016.

**ADDRESSES:** Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0311, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *prainfo@occ.treas.gov.* You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

**FOR FURTHER INFORMATION CONTACT:** Shaquita Merritt or Mary H. Gottlieb, OCC Clearance Officers, (202) 649–5490 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th St. SW., Washington, DC 20219. In addition, copies of the templates referenced in this notice can be found on the OCC's Web site under News and Issuances (*http://www.occ.treas.gov/tools-forms/forms/bank-operations/stress-test-reporting.html*).

**SUPPLEMENTARY INFORMATION:** The OCC is requesting comment on the following revision to an approved information collection:

*Title:* Company-Run Annual Stress Test Reporting Template and Documentation for Covered Institutions with Total Consolidated Assets of $50 Billion or More under the Dodd-Frank Wall Street Reform and Consumer Protection Act.

*OMB Control No.:* 1557–0311.

*Description:* Section 165(i)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act [1] (Dodd-Frank Act) requires certain financial companies, including national banks and federal savings associations, to conduct annual stress tests [2] and requires the primary financial regulatory agency [3] of those financial companies to issue regulations implementing the stress test requirements.[4] A national bank or Federal savings association is a ''covered institution'' and therefore subject to the stress test requirements if its total consolidated assets are more than $10 billion. Under section 165(i)(2), a covered institution is required to submit to the Board of Governors of the Federal Reserve System (Board) and to its primary financial regulatory agency a report at such time, in such form, and containing such information as the primary financial regulatory agency may require.[5] On October 9, 2012, the OCC published in the **Federal Register** a final rule implementing the section 165(i)(2) annual stress test requirement.[6] This rule describes the reports and information collections required to meet the reporting requirements under section 165(i)(2). These information collections will be given confidential treatment (5 U.S.C. 552(b)(4)).

In 2012, the OCC first implemented the reporting templates referenced in the final rule. *See* 77 FR 49485 (August 16, 2012) and 77 FR 66663 (November 6, 2012). The OCC is now revising them as described below.

The OCC intends to use the data collected to assess the reasonableness of the stress test results of covered institutions and to provide forward-looking information to the OCC regarding a covered institution's capital adequacy. The OCC also may use the results of the stress tests to determine whether additional analytical techniques and exercises could be appropriate to identify, measure, and monitor risks at the covered institution. The stress test results are expected to support ongoing improvement in a covered institution's stress testing practices with respect to its internal assessments of capital adequacy and overall capital planning.

The OCC recognizes that many covered institutions with total consolidated assets of $50 billion or more are required to submit reports using CCAR reporting form FR Y–14A.[7] The OCC also recognizes the Board has a proposal to modify the FR Y–14A out for comment and, to the extent practical, the OCC will keep its reporting requirements consistent with the Board's FR Y–14A in order to minimize burden on covered institutions.[8] Therefore, the OCC is proposing to revise its reporting requirements to remain consistent with the Board's proposed FR Y–14A for covered institutions with total consolidated assets of $50 billion or more. The OCC is also proposing to revise the Scenario Schedule, which collects information on scenario variables beyond those provided by the OCC. The purpose of this revision is to require further clarity on the definitions of the additional scenario variables.

**Proposed Revisions to Reporting Templates for Institutions With $50 Billion or More in Assets**

The proposed revisions to the DFAST–14A reporting templates consist of the following:

• Bank-specific scenario: Covered institutions would be required to submit bank-specific baseline and stress scenarios and projections for 2017 and will have the option to do so for 2016;

• Largest counterparty default: For the largest trading covered institutions that also submit the Global Market Shock scenario, they would be required to assume the default of their largest counterparty in the supervisory severely adverse and adverse scenarios for 2017 and will have the option to do so for 2016;

• Advanced approaches banks: (1) Delay incorporation of the supplemental leverage ratio for one year and (2)

[1] Public Law 111–203, 124 Stat. 1376, July 2010.

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

[3] 12 U.S.C. 5301(12).

[4] 12 U.S.C. 5365(i)(2)(C).

[5] 12 U.S.C. 5365(i)(2)(B).

[6] 77 FR 61238 (October 9, 2012) (codified at 12 CFR 46).

[7] *http://www.federalreserve.gov/reportforms.*

[8] 80 FR 55631 (Sept. 16, 2015).

indefinitely defer the use of the advance approaches for stress testing projections;

• Reporting Template and Supporting Documentation Changes: Clarifying instructions, adding data items, deleting data items, and redefining existing data items. This includes an expansion of the information collected in the scenario schedule. The proposed revisions also include a shift of the as-of date in accordance with modifications to the OCC's stress testing rule.[9]

• These revisions also reflect the implementation of the final Basel III regulatory capital rule. On July 9, 2013, the OCC approved a joint final rule that will revise and replace the OCC's risk-based and leverage capital requirements to be consistent with agreements reached by the Basel Committee on Banking Supervision in ''Basel III: A Global Regulatory Framework for More Resilient Banks and Banking Systems'' (Basel III).[10] Accordingly, the proposed revisions would reflect the fact that institutions will no longer report items based on the pre-Basel III capital rules.

**Bank-Specific Scenarios**

Covered institutions would be required to submit bank-specific baseline and bank-specific stress scenarios and associated projections for the 2017 annual stress testing submission and may do so optionally for the 2016 annual stress testing submission. While supervisory scenarios provide a homogeneous scenario and a consistent market-wide view of the condition of the banking sector, these prescribed scenarios may not fully capture all of the risks that may be associated with a particular institution. The proposed revisions would require covered institutions to provide bank-specific baseline and bank-specific stress scenarios.

The OCC recognizes that the Board requires bank holding companies (BHCs) to submit BHC-specific baseline and stress scenarios and projections. Where OCC-covered institutions also submit BHC-specific scenarios, the OCC would require that bank-specific scenarios would be consistent with the BHC-specific scenarios.

**Largest Counterparty Default**

Covered institutions that currently complete the Global Market Shock would also be required to complete the Largest Counterparty Default component for the 2017 submission and have the option to do so for the 2016 submission. This is currently required by the Board, and the OCC would adopt a similar requirement to enhance consistency and reduce regulatory burden.

**Supplemental Leverage Ratio**

The supplementary leverage ratio requirement applies only to covered institutions that use the advanced approaches to calculate their minimum regulatory capital requirements. For these covered institutions, the proposal would delay the incorporation of the supplementary leverage ratio in stress testing projections for one year. Under the proposal, these covered institutions would not be required to include an estimate of the supplementary leverage ratio for the stress test cycle beginning on January 1, 2016. The OCC understands that the Board is proposing a similar requirement, and the OCC would adopt a similar requirement to enhance consistency and reduce regulatory burden.

**Advanced Approaches**

Covered institutions have noted that the use of advanced approaches in stress test rules would require significant resources and would introduce complexity and opacity. In light of the concerns raised by these covered institutions, and pending a review of how the stress test rules interact with the regulatory capital rules as described above, the proposal would delay until further notice the use of the advanced approaches for calculating risk-based capital requirements for purposes of the capital plan and stress test rule.

**Other Reporting Template and Instruction Changes**

The proposed revisions to the DFAST–14A consist of clarifying instructions, adding and removing schedules, adding, deleting, and modifying existing data items, and altering the as-of dates. These proposed changes would (1) increase consistency between the DFAST–14A with the FR Y–14A, Call Report, FFIEC 101, and FFIEC 102; (2) remove the requirement to calculate tier 1 common capital and the tier 1 common ratio; (3) shift the as-of dates by one quarter in accordance with the modifications to the stress test rules; (4) modify and expand the supporting documentation requirements; and (5) increase the historical information collected in the scenario schedule in order to facilitate comparisons of the data. Furthermore, the OCC understands that the Board is currently collecting information for the Summary Schedule via XML scheme technology, and the OCC would use a similar format to enhance consistency and reduce regulatory burden. Technical details on these forms will be provided separately.

*Schedule A (Summary)—A.1.c.1 (General RWA)*

This schedule would be removed in accordance with the proposed revisions to eliminate use of the tier 1 common ratio, effective for the 2016 DFAST submission. However, in order to mitigate operational issues and allow for appropriate time to adjust internal systems to accommodate changes this schedule would remain part of the technical XML instructions for the 2016 DFAST submission.

*Schedule A (Summary)—Revisions to Schedule A.1.c.2 (Standardized RWA)*

This schedule would be modified to increase consistency with the FFIEC 102. Specifically, the items of the existing market risk-weighted asset portion would be replaced with the appropriate items from the FFIEC 102. These changes would be effective for the 2017 DFAST submission.

*Schedule A (Summary)—Revisions to Schedule A.1.d (Capital)*

The OCC proposes removing certain items related to tier 1 common capital, effective for the 2016 DFAST submission. However, in order to mitigate operational issues and allow for appropriate time to adjust internal systems to accommodate changes, this schedule would remain part of the technical XML instructions for the DFAST 2016 submission. Additionally, effective for the 2016 DFAST submission, the OCC proposes adding one item that captures the aggregate non-significant investments in the capital of unconsolidated financial institutions in the form of common stock and breaking out two items related to deferred tax assets into the amount before valuation allowances and the associated valuation allowance. The additional information from these changes would result in two existing items converting to derived items based on the additional information.

*Schedule A (Summary)—Revisions to Schedule A.2.b (Retail Repurchase)*

This schedule would be removed to reduce reporting burden, effective for the 2017 DFAST submission.

*Schedule A (Summary)—Deletion of Schedule A.2.c (ASC 310–30)*

This schedule would be removed to reduce reporting burden, effective for the 2017 DFAST submission.

[9] See 79 FR 71630 (Dec. 3, 2014) (shifting the dates of the annual stress testing cycle).

[10] *http://www.occ.gov/news-issuances/news-releases/2013/nr-occ-2013-110.html.*

*Schedule A (Summary)—Revisions to Schedule A.7.c (PPNR Metrics)*

In order to fully align the schedule with the stress scenarios, the beta information would be collected according to the scenario instead of the current ''normal environment'' requirement, effective for the 2016 DFAST submission.

*Counterparty Credit Risk Schedule*

This schedule would be removed to reduce reporting burden effective for the 2016 DFAST submission. Aggregate counterparty credit risk information will continue to be obtained through the Summary Schedule (Schedule A).

*Scenario Schedule*

Information about additional scenarios that are used by covered institutions is currently submitted in a format with limited structure, which makes it difficult for the OCC to evaluate. As such, the OCC would require that covered institutions provide three more historical quarters in addition to the currently required most recent historical quarter of actual data values for each additional variable submitted. The OCC would also provide additional instructions on variable naming conventions and other appropriate standardizations in order to facilitate more streamlined electronic processing of the data.

*Type of Review:* Revision.

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

*Estimated Number of Respondents:* 23.

*Estimated Total Annual Burden:* 16,466 hours.

The OCC believes that the systems covered institutions use to prepare the FR Y–14 reporting templates to submit to the Board will also be used to prepare the reporting templates described in this notice. Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the burden of the collection of information;

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

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

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

Dated: November 9, 2015.

**Stuart Feldstein,**

*Director, Legislative and Regulatory Activities Division.*

[FR Doc. 2015–29211 Filed 11–16–15; 8:45 am]

BILLING CODE 4810–33–P

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## DEPARTMENT OF THE TREASURY

### Fiscal Service

### Surety Companies Acceptable on Federal Bonds: Change In Business Address Colonial Surety Company

**AGENCY:** Bureau of the Fiscal Service, Fiscal Service, Department of the Treasury.

**ACTION:** Notice.

**SUMMARY:** This is Supplement No. 4 to the Treasury Department Circular 570, 2015 Revision, published July 1, 2015, at 80 FR 37735.

**FOR FURTHER INFORMATION CONTACT:** Surety Bond Branch at (202) 874–6850.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given by the Treasury that COLONIAL SURETY COMPANY formally changed its ''BUSINESS ADDRESS'' to: 123 Tice Boulevard, Suite 250, Woodcliff Lake, NJ 07677.

Federal bond-approving officers should annotate their reference copies of the Treasury Department Circular 570 (''Circular''), 2015 revision, to reflect this change.

The Circular may be viewed and downloaded through the Internet at *www.fiscal.treasury.gov/fsreports/ref/suretyBnd/surety_home.htm.*

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Funds Management Division, Surety Bond Branch, 3700 East-West Highway, Room 6D22, Hyattsville, MD 20782.

Dated: November 2, 2015.

**Kevin McIntyre,**

*Manager, Financial Accounting and Services Branch.*

[FR Doc. 2015–29299 Filed 11–16–15; 8:45 am]

BILLING CODE 4810–AS–P

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## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

### Additional Designations, Foreign Narcotics Kingpin Designation Act

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of two individuals and two entities whose property and interests in property have been blocked pursuant to the Foreign Narcotics Kingpin Designation Act (Kingpin Act) (21 U.S.C. 1901–1908, 8 U.S.C. 1182).

**DATES:** The designation by the Acting Director of OFAC of the two individuals and two entities identified in this notice pursuant to section 805(b) of the Kingpin Act is effective on November 10, 2015.

**FOR FURTHER INFORMATION CONTACT:** Assistant Director, Sanctions Compliance & Evaluation, Office of Foreign Assets Control, U.S. Department of the Treasury, Washington, DC 20220, Tel: (202) 622–2490.

**SUPPLEMENTARY INFORMATION:**

#### Electronic and Facsimile Availability

This document and additional information concerning OFAC are available on OFAC's Web site at *http://www.treasury.gov/ofac* or via facsimile through a 24-hour fax-on-demand service at (202) 622–0077.

#### Background

The Kingpin Act became law on December 3, 1999. The Kingpin Act establishes a program targeting the activities of significant foreign narcotics traffickers and their organizations on a worldwide basis. It provides a statutory framework for the imposition of sanctions against significant foreign narcotics traffickers and their organizations on a worldwide basis, with the objective of denying their businesses and agents access to the U.S. financial system and the benefits of trade and transactions involving U.S. companies and individuals.

The Kingpin Act blocks all property and interests in property, subject to U.S. jurisdiction, owned or controlled by significant foreign narcotics traffickers as identified by the President. In addition, the Secretary of the Treasury, in consultation with the Attorney General, the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement

Administration, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security, may designate and block the property and interests in property, subject to U.S. jurisdiction, of persons who are found to be: (1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a person designated pursuant to the Kingpin Act; (2) owned, controlled, or directed by, or acting for or on behalf of, a person designated pursuant to the Kingpin Act; or (3) playing a significant role in international narcotics trafficking.

On November 10, 2015, the Acting Director of OFAC designated the following two individuals and two entities whose property and interests in property are blocked pursuant to section 805(b) of the Kingpin Act.

## Individuals

1. FEO ALVARADO, Alveiro (a.k.a. ''BENAVIDES''), Colombia; DOB 16 Jun 1967; POB El Paso, Cesar, Colombia; citizen Colombia; Cedula No. 77162067 (Colombia) (individual) [SDNTK] (Linked To: LOS URABENOS). Designated for materially assisting in, or providing support for or to, or providing goods or services in support of, the international narcotics trafficking activities of LOS URABENOS; and/or being controlled, directed by and/or acting for or on behalf of LOS URABENOS, and therefore meets the statutory criteria for designation as a Specially Designated Narcotics Trafficker (SDNT) pursuant to sections 805(b)(2) and/or (3) of the Kingpin Act.

2. MOSQUERA PEREZ, Victor Alfonso (a.k.a. ''NEGRO MOSQUERA''), Colombia; DOB 14 Sep 1984; POB Turbo, Antioquia, Colombia; citizen Colombia; Cedula No. 8358401 (individual) [SDNTK] (Linked To: LOS URABENOS). Designated for materially assisting in, or providing support for or to, or providing goods or services in support of, the international narcotics trafficking activities of LOS URABENOS; and/or being controlled, directed by, and/or acting for or on behalf of LOS URABENOS, and therefore meets the statutory criteria for designation as an SDNT pursuant to sections 805(b)(2) and/or (3) of the Kingpin Act.

## Entities

1. DE EXPOMINERIA S.A.S. (a.k.a. DE EXPOMINERIA S.A.), Calle 40, 81 a 15, Medellin, Colombia; NIT # 900328871–2 (Colombia) [SDNTK]. Designated for being owned, controlled, directed by, and/or acting for or on behalf of LOS URABENOS, and therefore meets the statutory criteria for designation as an SDNT pursuant to section 805(b)(3) of the Kingpin Act.

2. JOYERIA MVK, Calle 100 # 10–29, Turbo, Antioquia, Colombia; NIT # 8358401–7 (Colombia) [SDNTK]. Designated for being owned, controlled, directed by, and/or acting for or on behalf of LOS URABENOS and therefore meets the statutory criteria for designation as an SDNT pursuant to section 805(b)(3) of the Kingpin Act.

Dated: November 10, 2015.

**Andrea Gacki,**

*Acting Director, Office of Foreign Assets Control.*

[FR Doc. 2015–29263 Filed 11–16–15; 8:45 am]

BILLING CODE 4810–AL–P

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

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

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning modifications of commercial mortgage loans held by a real estate mortgage investment conduit.

**DATES:** Written comments should be received on or before January 19, 2016 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Michael Joplin, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the regulations should be directed to Sara Covington at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Sara.L.Covington@irs.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Modifications of Commercial Mortgage Loans Held by a Real Estate Mortgage Investment Conduit (REMIC).

*OMB Number:* 1545–2110.

*Regulation Project Number:* REG–127770–07 (TD 9463).

*Abstract:* This final regulation would expand the list of permitted loan modifications to include certain modifications of commercial mortgages. Changes to the regulations are necessary to better accommodate evolving commercial mortgage industry packages.

*Current Actions:* There is no change to this existing regulation.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 200.

*Estimated Time per Respondent:* 15 hours.

*Estimated Total Annual Burden Hours:* 3,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 6, 2015.

**Michael Joplin,**

*IRS Supervisory Tax Analyst.*

[FR Doc. 2015–29293 Filed 11–16–15; 8:45 am]

BILLING CODE 4830–01–P

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 4255

**AGENCY:** Internal Revenue Service (IRS), Treasury.

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

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4255, Recapture of Investment Credit.

**DATES:** Written comments should be received on or before January 19, 2016 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Michael Joplin, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Sara Covington, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *Sara.L.Covington@irs.gov*.

**SUPPLEMENTARY INFORMATION:**

*Title:* Recapture of Investment Credit.

*OMB Number:* 1545–0166.

*Form Number:* 4255.

*Abstract:* Internal Revenue Code section 50(a) requires that a taxpayer's income tax be increased by the investment credit recapture tax if the taxpayer disposes of investment credit property before the close of the recapture period used in figuring the original investment credit. Form 4255 provides for the computation of the recapture tax.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations, individuals, and farms.

*Estimated Number of Respondents:* 13,200.

*Estimated Time per Respondent:* 9 hrs. 49 min.

*Estimated Total Annual Burden Hours:* 129,492.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: November 6, 2015.

**Michael A. Joplin,**

*IRS Supervisory Tax Analyst.*

[FR Doc. 2015–29328 Filed 11–16–15; 8:45 am]

**BILLING CODE 4830–01–P**

# FEDERAL REGISTER

Vol. 80 Tuesday,
No. 221 November 17, 2015

## Part II

## The President

Executive Order 13711—Establishing an Emergency Board To Investigate Disputes Between New Jersey Transit Rail and Certain of Its Employees Represented by Certain Labor Organizations

Federal Register
Vol. 80, No. 221
Tuesday, November 17, 2015

# Presidential Documents

**Title 3—**

**The President**

**Executive Order 13711 of November 12, 2015**

## Establishing an Emergency Board To Investigate Disputes Between New Jersey Transit Rail and Certain of Its Employees Represented by Certain Labor Organizations

Disputes exist between the New Jersey Transit Rail and certain of its employees represented by certain labor organizations. The labor organizations involved in these disputes are designated on the attached list, which is made part of this order.

The disputes have not heretofore been adjusted under the provisions of the Railway Labor Act, as amended, 45 U.S.C. 151–188 (RLA).

A first emergency board to investigate and report on these disputes was established on July 16, 2015, by Executive Order 13700 of July 15, 2015. The emergency board terminated upon issuance of its report. Subsequently, its recommendations were not accepted by the parties.

A party empowered by the RLA has requested that the President establish a second emergency board pursuant to section 9A of the RLA (45 U.S.C. 159a).

Section 9A(e) of the RLA provides that the President, upon such request, shall appoint a second emergency board to investigate and report on the disputes.

NOW, THEREFORE, by the authority vested in me as President by the Constitution and the laws of the United States, including section 9A of the RLA, it is hereby ordered as follows:

**Section 1**. *Establishment of Emergency Board (Board).* There is established, effective 12:01 a.m. eastern standard time on November 13, 2015, a Board of three members to be appointed by the President to investigate and report on these disputes. No member shall be pecuniarily or otherwise interested in any organization of employees or any carrier. The Board shall perform its functions subject to the availability of funds.

**Sec. 2**. *Report.* Within 30 days after the creation of the Board, the parties to the disputes shall submit to the Board final offers for settlement of the disputes. Within 30 days after the submission of final offers for settlement of the disputes, the Board shall submit a report to the President setting forth its selection of the most reasonable offer.

**Sec. 3**. *Maintaining Conditions.* As provided by section 9A(h) of the Act, from the time a request to establish a second emergency board is made until 60 days after the Board submits its report to the President, the parties to the controversy shall make no change in the conditions out of which the disputes arose except by agreement of the parties.

**Sec. 4**. *Records Maintenance.* The records and files of the Board are records of the Office of the President and upon the Board's termination shall be maintained in the physical custody of the National Mediation Board.

**Sec. 5**. *Expiration.* The Board shall terminate upon the submission of the report provided for in section 2 of this order.

THE WHITE HOUSE,
*November 12, 2015.*

Billing code 3295–F6–P

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LABOR ORGANIZATIONS

International Brotherhood of Electrical Workers
Transportation Communications International Union/IAM
Brotherhood of Locomotive Engineers and Trainmen
International Association of Sheet Metal, Air, Rail and Transportation Workers - Transportation Division (UTU)
International Association of Machinists & Aerospace Workers
Brotherhood of Railroad Signalmen
National Conference of Firemen & Oilers, SEIU
International Association of Sheet Metal, Air, Rail and Transportation Workers
American Train Dispatchers Association
Brotherhood of Maintenance of Way Employes Division
International Brotherhood of Boilermakers
Transport Workers Union of America

[FR Doc. 2015–29498
Filed 11–16–15; 11:15 am]
Billing code 7551–01–C

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Tuesday, November 17, 2015

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