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

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Presidential Documents

Title 3—

The President

Proclamation 9628 of July 25, 2017

Anniversary of the Americans with Disabilities Act, 2017

By the President of the United States of America

A Proclamation

On the anniversary of the Americans with Disabilities Act (ADA), we celebrate the landmark legislation that marks our Nation's commitment to ending discrimination against people with disabilities. The ADA's recognition of the inherent dignity of disabled persons solidified America's status as the world leader in protecting fundamental rights. Today, we pay special respect to the contributions of the more than 56 million Americans living with disabilities, and we look forward to further advancing accessibility for all those who need it.

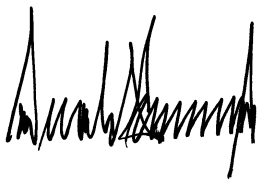
President George H.W. Bush signed the ADA on July 26, 1990, and for 27 years it has been instrumental in protecting the rights and liberties of people with disabilities and strengthening their access to everyday American life. Disabilities are an unavoidable part of the human experience—veterans injured in service to their Nation, survivors of accidents and illnesses, children born with disabilities, and our elderly. Since its inception, the ADA has helped empower people living with disabilities by ensuring they have fair and just access to employment, government services, public accommodations, commercial facilities, and public transportation.

Americans are justifiably proud of the ADA and its accomplishments, but more can be done to protect the rights and dignity of Americans living with disabilities. Disabled Americans in the workforce already contribute substantially to our Nation's productivity and prosperity. We must continue to empower them by breaking down obstacles that prevent their full participation in the public and economic affairs of our Nation. In addition, my Administration will encourage American ingenuity and technological advancements in medicine and science, which will give millions of Americans with disabilities opportunities to work, engage in commerce, and connect with others in ways we could not have imagined 27 years ago.

On the anniversary of the ADA, we reaffirm our commitment to fostering an environment that provides all Americans with the opportunity to pursue their American dream. Let us all take this time to refocus our efforts to support our fellow Americans and help them succeed, no matter the obstacles they may face.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim July 26, 2017, as a day in celebration of the 27th Anniversary of the Americans with Disabilities Act. I call upon all Americans to observe this day with appropriate ceremonies and activities that celebrate the contributions of Americans with disabilities and to renew our commitment to achieving the promise of our freedom for all Americans.

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



[FR Doc. 2017–16145
Filed 7–28–17; 8:45 am]
Billing code 3295–F7–P

Rules and Regulations

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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0185; Airspace Docket No. 17–ASW–6]

Amendment of Class E Airspace for the Following Texas Towns; Pampa, TX and Seminole, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace extending upward from 700 feet above the surface at Perry Lefors Field, Pampa, TX and Gaines County Airport, Seminole, TX. Decommissioning of non-directional radio beacons (NDB) and cancellation of NDB approaches makes it necessary to implement new area navigation (RNAV) procedures for the safety and management of instrument flight rules (IFR) operations at the airport.

DATES: Effective 0901 UTC, September 14, 2017. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11A, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/*. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11A at NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

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

FOR FURTHER INFORMATION CONTACT: Walter Tweedy (prepared by Ron Laster), Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5802.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies Class E airspace at Perry Lefors Field, Pampa, TX and Gaines County Airport, Seminole, TX to ensure the safety of IFR operations at these airports.

History

The FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) (82 FR 18406, April 19, 2017) Docket No. FAA–2017–0185 to modify Class E airspace extending upward from 700 feet above the surface at Perry Lefors Field, Pampa, TX and Gaines County Airport, Seminole, TX. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11A, dated August 3, 2016, and effective September 15, 2016, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016. FAA Order 7400.11A is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11A lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 modifies Class E airspace extending upward from 700 feet above the surface at Perry Lefors Field, Pampa, TX. Specifically, the action removed the segment 3 miles each side of the 354° bearing from the Pampa NDB extending from the 7.3-mile radius to 10.1 miles north of the airport, and reduces the Class E airspace extending upward from 700 feet above the surface at the airport from a 7.3-mile radius to a 6.4-mile radius.

This action also modifies Class E airspace extending upward from 700 feet above the surface at Gaines County Airport, Seminole, TX. by removing the segment 2.5 miles each side of the 189° bearing from the Gaines CO NDB extending from the 6.7-mile radius to 7.7 miles south of the airport.

Airspace reconfiguration is necessary due to the decommissioning of the Pampa (NDB), and Gaines County NDB and cancellation of NDB approaches, and implementation of area navigation (RNAV) procedures at these airports. Controlled airspace is necessary for the safety and management of the standard instrument approach procedures for IFR operations at the airports.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3)

does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016, is amended as follows:

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

* * * * *

ASW TX E5 Pampa, TX [Amended]

Pampa, Perry Lefors Field, TX
(Lat. 35°36′47″ N., long. 100°59′47″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Perry Lefors Field.

* * * * *

ASW TX E5 Seminole, TX [Amended]

Seminole, Gaines County Airport, TX
(Lat. 32°40′31″ N., long. 102°39′10″ W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of Gaines County Airport.

Issued in Fort Worth, Texas, on July 20, 2017.

Vonnie Royal,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2017–15873 Filed 7–28–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0315; Airspace Docket No. 17–ANM–5]

Amendment of Class E Airspace, Dixon, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace extending upward from 700 feet above the surface at Dixon Airport, Dixon, WY, to support the implementation of new area navigation (RNAV) global positioning system (GPS) standard instrument approach procedures for instrument flight rules (IFR) operations at the airport for the safety and management of controlled airspace within the national airspace system.

DATES: Effective 0901 UTC, October 12, 2017. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11A, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

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

FOR FURTHER INFORMATION CONTACT: Tom Clark, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4511.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes Class E airspace extending upward from 700 feet above the surface at Dixon Airport, Dixon, WY, to support the implementation of new RNAV (GPS) standard instrument approach procedures for instrument flight rules (IFR) operations at the airport.

History

On June 2, 2017, the FAA published a notice of proposed rulemaking in the **Federal Register** (82 FR 25563) Docket No. FAA–2017–0315, to establish Class E airspace extending upward from 700 feet above the surface at Dixon Airport, Dixon, WY. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11A, dated August 3, 2016, and effective September 15, 2016, which is incorporated by reference in 14 CFR part 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016. FAA Order 7400.11A is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11A lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 establishes Class E airspace extending upward from 700 feet above the surface at Dixon Airport, Dixon, WY. Controlled airspace is established within a 7-mile radius of Dixon Airport with a segment 8 miles wide (4 miles each side of a 045° bearing from the airport) extending to 15.5 miles northeast of the airport to support new RNAV (GPS) instrument approach procedures for IFR operations at the airport. This action ensures the safety and management of aircraft within the national airspace system as we transition from ground-based navigation aids to a satellite-based Global Navigation Satellite System.

Regulatory Notices and Analyses

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

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016, is amended as follows:

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

* * * * *

ANM WY E5 Dixon, WY [New]

Dixon Airport, WY

(Lat. 41°02′15″ N., long. 107°29′33″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Dixon Airport, and within 4 miles each side of a 045° bearing from the airport extending from the 7-mile radius to 15.5 miles northeast of the airport.

Issued in Seattle, Washington, on July 20, 2017.

Sam S.L. Shrimpton,

Acting Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2017–15864 Filed 7–28–17; 8:45 am]

BILLING CODE 4910–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1259

RIN 2700–AE00

[Document Number NASA–17–055]

National Space Grant College and Fellowship Program

AGENCY: National Aeronautics and Space Administration.

ACTION: Direct final rule.

SUMMARY: This direct final rule makes nonsubstantive changes to Agency regulations to correct citations and office titles.

DATES: This direct final rule is effective September 29, 2017. Comments due on or before August 30, 2017. If adverse comments are received, NASA will publish a timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: Comments must be identified with RIN 2700–AE00 and may be sent to NASA via the *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Please note that NASA will post all comments on the Internet with changes, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Lenell Allen, Office of Education, NASA Headquarters, telephone (202) 358–1762.

SUPPLEMENTARY INFORMATION:

Direct Final Rule

NASA has determined this rulemaking meets the criteria for a direct final rule because it makes nonsubstantive changes to correct citations and office titles. No opposition to the changes and no significant adverse comments are expected. However, if the Agency receives a significant adverse comment, it will withdraw this direct final rule by publishing a notice in the **Federal Register**. A significant adverse comment is one that explains: (1) Why the direct final rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the direct final rule will be ineffective or unacceptable without a change. In determining whether a comment necessitates withdrawal of this direct final rule, NASA will consider whether it warrants a substantive response in a notice and comment process.

Statutory Authority

The National Aeronautics and Space Act (the Space Act), 51 U.S.C. 20113(a), authorizes the Administrator of NASA to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of its operations and the exercise of the powers vested in it by law.

Regulatory Analysis

Executive Order 12866, Regulatory Planning and Review and Executive Order 13563, Improvement Regulation and Regulation Review

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final

rule has been designated as ''not significant.''

Executive Order 13132, Federalism

E.O. 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999) requires regulations be reviewed for Federalism effects on the institutional interest of states and local governments, and if the effects are sufficiently substantial, preparation of the Federal assessment is required to assist senior policy makers. The amendments will not have any substantial direct effects on state and local governments within the meaning of the E.O. Therefore, no Federalism assessment is required.

Paperwork Reduction Act Statement

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

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to prepare an initial regulatory flexibility analysis to be published at the time the proposed rule is published. This requirement does not apply if the agency ''certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities'' (5 U.S.C. 603). This rule makes corrections to citations and titles of NASA officials; therefore, it does not have a significant economic impact on a substantial number of small entities.

List of Subjects in 14 CFR Part 1259

Colleges and universities.

Accordingly, under the authority of the National Aeronautics and Space Act, as amended, NASA amends part 1259 as follows:

PART 1259—NATIONAL SPACE GRANT COLLEGE AND FELLOWSHIP PROGRAM

■ 1. The authority citation for part 1259 is revised to read as follows:

Authority: Pub. L. 100–147, 101 Stat. 869–875; Sec. 3, Pub. L. 111–314, 124 Stat. 3382; 51 U.S.C. 40301–40311.

Subpart 1259.1—Basic Policy

■ 2. In § 1259.100, paragraph (a) is revised to read as follows:

§ 1259.100 Scope of part.

(a) This part 1259 establishes the policies, responsibilities, and procedures relative to the National Space Grant College and Fellowship Program established by Title II of the National Aeronautics and Space Administration (NASA) Authorization Act of 1988 (Pub. L. 100–147, 101 Stat. 869–875, now codified at 51 U.S.C. 40301–40311 as a result of Sec. 3, Pub. L. 111–314, 124 Stat. 3382). This statute authorizes the Administrator of NASA, in order to carry out the purposes of the National Space Grant College and Fellowship Act (the Act), to accept conditional or unconditional gifts and donations; to accept and use funds from other Federal departments, agencies, and instrumentalities; to make awards with respect to such needs or problems; and to designate Space Grant colleges. It further directs the Administrator to establish a graduate fellowship program to provide educational assistance to qualified individuals in fields related to space and to establish an independent committee known as the Space Grant Review Panel to review and advise the Administrator with respect to Space Grant programs.

* * * * *

■ 3. Amend § 1259.101 by revising paragraphs (b) introductory text, (f), (g), (h), and (n) to read as follows:

§ 1259.101 Definitions.

* * * * *

(b) *Institution of higher education* means any college or university in any state that:

* * * * *

(f) *Space means aeronautical and space activities* which has the meaning given to such term in section 103(1) of the National Aeronautics and Space Act of 1958, as amended (51 U.S.C. 20103).

(g) *Space Grant college* means any public or private institution of higher education that is designated as such by the Administrator or designee pursuant to section 208 of the Act.

(h) *Space Grant regional consortium* means any association or other alliance that is designated as such by the Administrator or designee pursuant to section 208 of the Act.

* * * * *

(n) *State Space Grant cooperating institution* means any institution of higher education in a state that does not have a designated Space Grant college, and that is named by the Administrator or designee to provide selected Space Grant program functions within that state.

■ 4. Revise § 1259.102 to read as follows:

§ 1259.102 General policy.

(a) In compliance with the National Space Grant College and Fellowship Act (51 U.S.C. 40301–40311), it shall be NASA's purpose to:

(1) Increase the understanding, assessment, development, and utilization of space resources by promoting a strong educational base, responsive research and training activities, and broad and prompt dissemination of knowledge and techniques;

(2) Utilize the abilities and talents of the universities of the Nation to support and contribute to the exploration and development of the resources and opportunities afforded by the space environment;

(3) Encourage and support the existence of interdisciplinary and multidisciplinary programs of space research to engage in activities of training (including teacher education), research, and public service and to have cooperative programs with industry;

(4) Encourage and support the existence of consortia, composed of university and industry members, to advance the exploration and development of space resources in cases in which national objectives can be better fulfilled than through the programs of single universities;

(5) Encourage and support Federal funding for graduate fellowships in fields related to space;

(6) Support activities in colleges and universities generally for the purpose of creating and operating a network of institutional programs that will enhance achievements resulting from efforts under this Act; and

(7) Encourage cooperation and coordination among Federal agencies and Federal programs concerned with space issues.

(b) It shall be NASA's policy to designate Space Grant colleges, State Space Grant cooperating institutions, and Space Grant regional consortia and award fellowships, grants, contracts, and other transactions competitively in a merit-based review process.

(c) It shall be NASA's policy to designate and make awards without regard to age, color, disability, national origin, race, religion, or sex.

■ 5. Amend § 1259.103 by revising the section heading and paragraphs (a)(1) and (b)(1) to read as follows:

§ 1259.103 Space authorities—regular and special.

(a) * * *

(1) In order to carry out the provisions of the Act, the Administrator is authorized to accept conditional or unconditional gifts or donations of services, money, or property; real, personal, or mixed; tangible or intangible. This authority is delegated to

the Director, NASA Space Grant Program.

* * * * *

(b) * * *

(1) To carry out the provisions of the Act, the Administrator is authorized to accept and use funds from other Federal departments, agencies, and instrumentalities to pay for awards under this program. This authority is delegated to the Director, NASA Space Grant Program.

* * * * *

Subpart 2—Space Grant Program and Project Awards

■ 6. Amend § 1259.201 by revising paragraphs (a)(1), (a)(2), (b) introductory text, and (b)(2) to read as follows:

§ 1259.201 Types of Space Grant program and project awards—regular and special.

(a) * * *

(1) Be funded by NASA in an amount not to exceed 66 percent of the total cost of the Space Grant award and/or fellowship program involved; or

(2) Be funded in an amount not to exceed 100 percent of its cost if the project award is funded by another Federal entity.

(b) A special Space Grant program or project award may be funded in an amount not to exceed 100 percent of the total cost of the special project if the Administrator or designee, the Director, NASA Space Grant Program, determines that:

* * * * *

(2) The probable benefit of such program or project outweighs the public interest in such matching requirement; and

* * * * *

■ 7. Amend § 1259.202 by revising paragraphs (a) and (c) to read as follows:

§ 1259.202 Application procedures.

(a) The opportunity to apply shall be announced by the Director, NASA Space Grant Program.

* * * * *

(c) The applications will be reviewed by a peer review merit selection panel appointed by the Director, NASA Space Grant Program.

■ 8. Amend § 1259.203 by revising the introductory text and paragraph (b) to read as follows:

§ 1259.203 Limitations.

The Act at Public Law 100–147, Section 206(d)(2) and (3), states that:

* * * * *

(b) However, funds may be used to lease any of the items listed in paragraph (a) of this section provided prior written approval is obtained from the Administrator or designee.

Subpart 3—National Needs Grants

■ 9. Revise § 1259.300 to read as follows:

§ 1259.300 Description.

National needs awards may be awarded by the Administrator or designee, Director, NASA Space Grant Program, to meet such needs or problems relating to aerospace identified by the Space Grant Review Panel, by NASA officials, or by any person. NASA may fund such awards in an amount not to exceed 100 percent of the total cost of the program or project.

■ 10. Amend § 1259.302 by revising paragraph (b) to read as follows:

§ 1259.302 Application procedures.

* * * * *

(b) The Director, NASA Space Grant Program shall establish a competitive, merit-based review process to examine unsolicited national needs proposals.

Subpart 4—Space Grant College and Consortium Designation

■ 11. Amend § 1259.400 by revising paragraphs (a) and (b) to read as follows:

§ 1259.400 Description.

(a) The Administrator may designate Space Grant colleges, Space Grant college consortia, and Space Grant regional consortia in order to establish Federal/university partnerships to promote a strong educational base in the space and aeronautical sciences. These designated colleges and consortia will provide leadership for a network of American colleges and universities, industry, and state and local governments in space-related fields. The Administrator hereby delegates this authority to the Director, NASA Space Grant Program.

(b) Designation of Space Grant colleges, Space Grant college consortia, and Space Grant regional consortia shall be for five years. Designation of Space Grant colleges and consortia may be continued for more than five years based on the results of a merit review at the beginning of the fifth year. A claim arising in the United States should be submitted to the Chief Counsel of the NASA installation whose activities are believed to have given rise to the claimed injury, loss, or death. If the identity of such installation is not known, or if the claim arose in a foreign country, the claim should be submitted to the General Counsel, Headquarters, National Aeronautics and Space Administration, Washington, DC 20546.

* * * * *

■ 12. Amend § 1259.401 by revising paragraphs (d) and (e) to read as follows:

§ 1259.401 Responsibilities.

* * * * *

(d) Develop and implement programs of public service, interdisciplinary space-related programs, advisory activities, and cooperation with industry, research laboratories, state and local governments, and other colleges and universities, particularly institutions in their state and/or region with significantly large enrollments of minority students who are under-represented in science and technology; and

(e) Provide non-Federal matching funds (exclusive of in-kind contributions) for the Space Grant program equal to those provided by NASA.

■ 13. Amend § 1259.402 by revising paragraphs (a), (b) introductory text, and (c) to read as follows:

§ 1259.402 Basic criteria and application procedures.

(a) Any institution of higher education may be designated a Space Grant college if the Administrator or designee, Director, NASA Space Grant Program, determines that it has a balanced program of research, education, training, and advisory services in fields related to space, as further defined in the program announcement.

(b) Any association or other alliance of two or more persons may be designated a Space Grant regional consortium, if the Administrator or designee, Director, National Space Grant Program, determines that such association or alliance:

* * * * *

(c) The opportunity to apply for designation shall be announced by the Director, NASA Space Grant Program. The application procedures and evaluation guidelines for designation shall be included in the designation announcement.

* * * * *

■ 14. Revise § 1259.403 to read as follows:

§ 1259.403 Limitations.

The same limitations shall apply as stated in § 1259.203.

■ 15. Revise § 1259.404 to read as follows:

§ 1259.404 Suspension or termination of designation.

The Administrator or designee, Director, NASA Space Grant Program, may, for cause, after an opportunity for a hearing before a Federal administrative judge appointed by the Deputy Administrator, suspend or terminate the Space Grant designation of any institution or consortium.

Subpart 5—Space Grant Fellowships

■ 16. Revise § 1259.500 to read as follows:

§ 1259.500 Description.

The Space Grant fellowship program will provide educational and training assistance to qualified individuals at the graduate level in fields related to space. Awards will be made to institutions of higher education for fellowships. The student recipients shall be referred to as NASA Space Grant Fellows.

■ 17. Revise § 1259.501 to read as follows:

§ 1259.501 Responsibilities.

(a) All institutions that receive Space Grant fellowships shall use the awards to increase the pool of graduate students in fields related to space.

(b) The overall fellowship program shall be cognizant of the importance of achieving institutional and geographical diversity.

■ 18. Amend § 1259.502 by revising paragraphs (a) and (c) to read as follows:

§ 1259.502 Application procedures.

(a) All applicants for designation as Space Grant colleges and consortia shall apply for Space Grant fellowships.

* * * * *

(c) There shall be a merit review selection for Space Grant fellowship awards.

■ 19. Amend § 1259.503 by revising paragraph (b) to read as follows:

§ 1259.503 Limitations.

* * * * *

(b) Any students supported under this fellowship program shall not be funded for more than four years unless the Director, NASA Space Grant Program, makes an exception in writing.

Subpart 6—Space Grant Review Panel

■ 20. Revise § 1259.600 to read as follows:

§ 1259.600 Panel description.

An independent committee, the Space Grant Review Panel (Panel), which is not subject to the Federal Advisory Committee Act, shall be established to advise the Administrator with respect to Space Grant program and project awards, the Space Grant fellowship program, and the designation and operation of Space Grant colleges and consortia. A majority of the voting members shall be individuals who, by reason of their knowledge, experience, or training, are especially qualified in one or more of the fields related to space. The other voting members shall be individuals who, by reason of their knowledge, experience, or training, are especially qualified in, or representative of, education, extension services, state government, industry, economics, planning, or any other activity related to the purposes of the Space Grant program.

■ 21. Amend § 1259.601 by revising paragraphs (a), (b), (c), (f), and (g) to read as follows:

§ 1259.601 Establishment and composition.

(a) The Panel, to be located at NASA Headquarters in Washington, DC, will be composed of ten (10) voting members who are not current NASA employees.

(b) The Panel shall include four representatives from Federal departments, agencies, or entities that have an interest in space programs or science and education, as well as six representatives from non-Federal entities.

(c) The non-Federal representatives shall include two persons who are directly involved with the Space Grant program at a Space Grant college or consortium, one person who is involved with the Space Grant program at a university that is not a designated Space Grant college, a university president or chancellor, one representative from a space-related industry, and the last person to be from whatever field the Administrator determines to be of greatest concern.

* * * * *

(f) The Administrator or designee, Director, NASA Space Grant Program, shall select a Chair and a Vice Chair for the Panel. The Vice Chair shall act as Chair in the absence or incapacity of the Chair.

(g) The Administrator or designee, Director, NASA Space Grant Program, may select NASA officials to serve as ex officio, non-voting members of the Panel.

■ 22. Revise § 1259.602 to read as follows:

§ 1259.602 Conflict of interest.

Any member of the Panel who has a personal or financial interest in an issue for consideration before the Panel shall abstain from all discussion and voting on such issue.

■ 23. Amend § 1259.603 by revising paragraphs (a) introductory text, (c), and (d) to read as follows:

§ 1259.603 Responsibilities.

(a) The Panel shall advise the Administrator and designee, Director, NASA Space Grant Program, with respect to:

* * * * *

(c) The Panel may exercise such powers as reasonably necessary in order to carry out the duties enumerated in paragraph (a) of this section.

(d) The Director, NASA Space Grant Program, shall appoint an Executive Secretary who shall perform administrative duties for the Panel.

* * * * *

Nanette J. Smith,

NASA Federal Register Liaison Officer.

[FR Doc. 2017–15984 Filed 7–28–17; 8:45 am]

BILLING CODE P

SUSQUEHANNA RIVER BASIN COMMISSION

18 CFR Parts 806 and 808

Review and Approval of Projects; Hearings and Enforcement Actions

Correction

In rule document 2017–13324, appearing on pages 29387–29397 in the Issue of Thursday, June 29, make the following correction:

§ 806.1 [Corrected]

■ 1. On page 29390, the first column, the fifth line down ''§ 806.1806.1 Scope.'', should read as ''806.1 Scope.''

§ 806.3 [Corrected]

■ 2. On page 29390, the first column, the twenty-seventh line from the bottom ''§ 806.3806.3 Definitions.'', should read as ''§ 806.3 Definitions.''

§ 806.4 [Corrected]

■ 3. On page 29390, the first column, the eleventh line from the bottom ''§ 806.4806.4 Projects requiring review and approval.'', should read as ''§ 806.4 Projects requiring review and approval.''

§ 806.6 [Corrected]

■ 4. On page 29390, the third column, the fourteenth line from the top ''§ 806.6806.6 Transfer of approvals.'', should read as ''§ 806.6 Transfer of approvals.''

§ 808.1 [Corrected]

■ 5. On page 29395, the second column, the eighth line from the top ''§ 808.1808.1 Public hearings.'', should read as ''§ 808.1 Public hearings.''

§ 808.2 [Corrected]

■ 6. On page 29396, the first column, the eighth line from the top ''§ 808.2808.2 Administrative appeals.'', should read as ''§ 808.2 Administrative appeals.''

[FR Doc. C1–2017–13324 Filed 7–28–17; 8:45 am]

BILLING CODE 1300–01–D

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–0728]

Drawbridge Operation Regulation; Carquinez Strait, Martinez, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Union Pacific Railroad Bridge across the Carquinez Strait, mile 7.0 at Martinez, CA. The deviation is necessary to allow the bridge owner to conduct emergency repairs. This deviation allows the bridge to remain in the closed-to-navigation position during the deviation period.

DATES: This deviation is effective from 10 a.m. to 4 p.m. on August 1, 2017.

ADDRESSES: The docket for this deviation [USCG–2017–0728], is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Carl T. Hausner, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510–437–3516; email *Carl.T.Hausner@uscg.mil.*

SUPPLEMENTARY INFORMATION: Union Pacific Railroad has requested a temporary change to the operation of the Union Pacific Railroad Bridge, mile 7.0, over the Carquinez Strait, at Martinez, CA. The drawbridge navigation span provides a vertical clearance of 70 feet above Mean High Water in the closed-to-navigation position. The draw operates as required by 33 CFR 117.5. Navigation on the waterway is commercial and recreational.

The drawspan will be secured in the closed-to-navigation position from 10 a.m. to 4 p.m. on August 1, 2017, to allow the bridge owner to conduct emergency repairs. This temporary deviation has been coordinated with the waterway users. No objections to the proposed temporary deviation were raised.

Vessels able to pass through the bridge in the closed position may do so at any time. The bridge will not be able to open for emergencies and there is no immediate alternate route for vessels to pass. The Coast Guard will also inform the users of the waterway, through our Local and Broadcast Notices to Mariners, of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: July 24, 2017.

Carl T. Hausner,

District Bridge Chief, Eleventh Coast Guard District.

[FR Doc. 2017–15987 Filed 7–28–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2017–0737]

Safety Zones; Point to LaPointe Swim; LaPointe, WI

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone for the Point to LaPointe Swim in LaPointe, WI from 7 a.m. through 10:30 a.m. on July 29, 2017. This action is necessary to protect participants and spectators during the Point to LaPointe Swim. During the enforcement period, entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Duluth or her designated on-scene representative.

DATES: The regulations in 33 CFR 165.943(b) will be enforced from 7 a.m. through 10:30 a.m. on July 29, 2017, for the Point to LaPointe Swim safety zone, § 165.943(a)(7).

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice of enforcement, call or email LT John Mack, Chief of Waterways Management, Coast Guard; telephone (218)725–3818, email *john.v.mack@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone for the annual Point to LaPointe Swim in 33 CFR 165.943(a)(7) from 7 a.m. through 10:30 a.m. on July 29, 2017, on all waters between Bayfield, WI and Madeline Island, WI within an imaginary line created by the following coordinates: 46°48′50.97″ N., 090°48′44.28″ W., moving southeast to 46°46′44.90″ N., 090°47′33.21″ W., then moving northeast to 46°46′52.51″ N. 090°47′17.14″ W., then moving northwest to 46°49′03.23″ N. 090°48′25.12″ W. and finally running back to the starting point.

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Duluth or her designated on-scene representative. The Captain of the Port's designated on-scene representative may be contacted via VHF Channel 16 or via telephone at (715) 779–5100. This notice of enforcement is issued under authority of 33 CFR 165.943 and 5 U.S.C. 552(a). In addition to this publication in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of the enforcement of this safety zone via Broadcast Notice to Mariners. The Captain of the Port Duluth or her on-scene representative may be contacted via VHF Channel 16 or via telephone at (715) 779–5100.

Dated: July 26, 2017.

E.E. Williams,

Commander, U.S. Coast Guard, Captain of the Port Duluth.

[FR Doc. 2017–16063 Filed 7–28–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Chapter III

Final Waiver and Extension of the Project Period; National Individuals With Disabilities Education Act (IDEA) Technical Assistance Center on Early Childhood Longitudinal Data Systems

AGENCY: Office of Special Education Programs (OSEP), Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Final waiver and extension of the project period.

[Catalog of Federal Domestic Assistance (CFDA) Number: 84.373Z.]

SUMMARY: The Secretary waives the requirements that generally prohibit project periods exceeding five years and

project period extensions involving the obligation of additional Federal funds. This action enables the National IDEA Technical Assistance Center on Early Childhood Longitudinal Data Systems (Center), currently funded under the Technical Assistance on State Data Collection Program, to receive funding from December 1, 2017, through November 30, 2018. This also means that we will not announce a new competition or make new awards in fiscal year (FY) 2017.

DATES: As of July 31, 2017, the Secretary waives project period requirements and extends the project period.

FOR FURTHER INFORMATION CONTACT: Meredith Miceli, U.S. Department of Education, 400 Maryland Avenue SW., Room 5130, Potomac Center Plaza, Washington, DC 20202–5108. Telephone: (202) 245–6028.

If you use a telecommunications device for the deaf or a text telephone, call the Federal Relay Service, toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On February 27, 2017, we published a document in the **Federal Register** (82 FR 11870) proposing an extension of the project period and waiver of 34 CFR 75.250 and 75.261(a) and (c)(2) for the Center (the waiver and extension) in order to:

(1) Enable the Secretary to provide additional funds to the currently funded Center for an additional 12-month period; and

(2) Invite comments on the proposed extension of project period and waiver.

There are no substantive differences between the proposed waiver and extension and this final waiver and extension.

Public Comment

Eight commenters responded to our invitation to comment in the proposed waiver and extension. Seven of the eight supported the proposed waiver and extension. One expressed concern regarding the proposed extension.

Analysis of Comments and Changes

Comment: Seven of the eight commenters provided favorable and supportive comments regarding the proposed waiver and extension.

Discussion: We thank these commenters for their support.

Changes: None.

Comment: One commenter requested information on the cost of the current grant.

Discussion: Beginning in December 2012, SRI International, the current grantee, has received approximately $6.5 million annually to run the Center. The waiver and extension will allow for an additional year of funding at the same level.

Changes: None.

Comment: The same commenter expressed concern that this one-year extension would not secure future funding for the Center or these efforts and would prove harmful to children with disabilities.

Discussion: We appreciate the commenter's concern for the long-term future of this important work. The extension would ensure continuity of valuable technical assistance (TA) services in critically needed areas, which will benefit States as they provide early intervention and special education services to children with disabilities. We agree that recompeting this investment in FY 2017 would likely provide additional clarity around funding priorities in future years. However, the Department is taking this action to ensure efficient and effective coordination of data TA by aligning the funding cycle for two large data TA centers. We believe such an approach is in the best interests of both States and the children with disabilities they serve.

Changes: None.

Comment: None.

Discussion: We misstated the dates of the extended project period in the proposed extension and waiver (October 1, 2017 through September 30, 2018). We have changed the dates to align with the period of the current grant (December 1, 2017 through November 30, 2018).

Changes: We have changed the dates of the project period for this extension to December 1, 2017, through November 30, 2018.

Final Waiver and Extension

In the proposed waiver and extension, we discuss the background and purposes of the Center and our reasons for proposing the waiver and extension.

For these reasons, the Secretary waives the requirements in 34 CFR 75.250, which prohibit project periods exceeding five years, as well as the requirements in 34 CFR 75.261(a) and (c)(2), which allow the extension of a project period only if the extension does not involve the obligation of additional Federal funds. The waiver allows the Department to issue a one-time FY 2017 continuation award of $6,500,000 to the Center originally funded in FY 2012.

Any activities carried out during the year of this continuation award must be consistent with, or a logical extension of, the scope, goals, and objectives of the grantee's application as approved in the 2012 competition. The requirements for continuation awards are set forth in the document inviting applications published in the **Federal Register** on February 27, 2017 (82 FR 11870) for a new award for FY 2012 and in 34 CFR 75.253.

Waiver of Delayed Effective Date

The Administrative Procedure Act requires that a substantive rule must be published at least 30 days before its effective date, except as otherwise provided for good cause (5 U.S.C. 553(d)(3)). All but one of the comments we received supported the proposed waiver and extension, and we have not made any substantive changes to the proposed waiver and extension. Therefore, the Secretary waives the delayed effective date to ensure there is no lapse in the TA services currently provided by the Center.

Regulatory Flexibility Act Certification

The Secretary certifies that this final waiver and extension of the project period will not have a significant economic impact on a substantial number of small entities.

The only entities that will be affected are the current grantee receiving Federal funds and any other potential applicants.

The Secretary certifies that this waiver and final extension will not have a significant economic impact on these entities because the extension of existing project periods imposes minimal compliance costs, and the activities required to support the additional year of funding will not impose additional regulatory burdens or require unnecessary Federal supervision.

Paperwork Reduction Act of 1995

This final waiver and extension of the project period does not contain any information collection requirements.

Intergovernmental Review

This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance. This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the contact person listed

under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys*. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: July 25, 2017.

Kimberly M. Richey,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2017–16068 Filed 7–28–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

34 CFR Parts 75 and 77

[Docket ID ED–2017–OII–0032]

RIN 1855–AA13

Definitions and Selection Criteria That Apply to Direct Grant Programs

AGENCY: Department of Education.

ACTION: Final rule with request for comments.

SUMMARY: The Secretary is issuing this rule in order to better align the regulations with the definition of ''evidence-based'' in the statutory authority. These changes mean that all competitive grant programs in the Department can continue to use the same provisions for evidence-based grant-making.

DATES: *Effective date:* These regulations are effective July 31, 2017. The incorporation by reference of certain publications listed in these regulations is approved by the Director of the Federal Register as of July 31, 2017.

Comment due date: We will accept comments on or before August 30, 2017. We will consider the comments received and may conduct additional rulemaking based on the comments.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under ''How to use *Regulations.gov*.''
- *Postal Mail, Commercial Delivery, or Hand Delivery.* If you mail or deliver your comments about these final regulations, address them to Kelly Terpak, U.S. Department of Education, 400 Maryland Avenue SW., Room 4W312, Washington, DC 20202–5900.

Privacy Note: The Department's policy for comments received from members of the public is to make these submissions available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov*. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Kelly Terpak, U.S. Department of Education, 400 Maryland Avenue SW., Room 4W312, Washington, DC 20202–5900. Telephone: (202) 205–5231 or by email: *kelly.terpak@ed.gov*.

If you use a telecommunications device for the deaf (TDD) or text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: As noted above, these regulations are effective on July 31, 2017. However, for grant award competitions announced by the Department in the **Federal Register** prior to the effective date of these regulations, unless the notice specifies otherwise, the provisions of 34 CFR parts 75 and 77 revised or removed through this notice of final regulations continue to apply to competitions and grants awarded under those notices inviting applications.

Invitation To Comment

These regulations do not establish substantive policy changes, but instead make technical changes to existing regulations. Since these regulations make only technical changes, a comment period is not required. However, we are interested in whether you think we should make any changes in these regulations and thus we are inviting your comments. We will consider these comments in determining whether to make further technical changes to the regulations or engage in additional rulemaking. To ensure that your comments have maximum effect, we urge you to identify clearly the specific section or sections of the regulations that each of your comments addresses and to arrange your comments in the same order as the regulations. See **ADDRESSES** for instructions on how to submit comments.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirements of reducing regulatory burden that might result from these regulations. Please let us know of any additional ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the Department's programs and activities.

During and after the comment period, you may inspect all public comments about these regulations by accessing *Regulations.gov*. You may also inspect the comments in person in Room 6W245, 400 Maryland Avenue SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays. If you want to schedule time to inspect comments, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these regulations. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Final Regulatory Changes

I. Selection Criteria

Background: The regulations in subpart D of 34 CFR part 75 set forth the general requirements that govern the Department's selection of grantees for direct grant awards. For those direct grant programs that make discretionary grant awards, the Secretary uses selection criteria to evaluate applications submitted under those programs. The regulations establish a

menu of selection criteria that the Secretary may use in any Department discretionary grant competition.

34 CFR Part 75

§ 75.210 General Selection Criteria

Current Regulations: Current § 75.210(c) lists 29 factors under the ''Quality of the Project Design'' selection criterion. Section 75.210(h) includes 12 factors under the ''Quality of the Project Evaluation'' selection criterion.

Final Regulations and Reasons: We make the following changes to the selection criteria in § 75.210(c) and (h):

(1) Add one selection factor under the ''Quality of the Project Design'' criterion (§ 75.210(c)) to clarify that the Department may assess the extent to which an applicant's proposed project would represent a faithful adaptation of the evidence cited in support of its project. This factor is designed to assess whether projects would in fact implement the evidence cited as support, such that the project is ''evidence-based'' as described in section 8101(21)(A) of the Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeeds Act (ESSA).

(2) For clarification, add two selection factors under the ''Quality of the Project Evaluation'' criterion (§ 75.210(h)) focused on (a) the qualifications of an applicant's evaluator; and (b) the sufficiency of resources to carry out the project evaluation.

We also revise two factors under the ''Quality of the Project Design'' criterion (§ 75.210(c)) and four factors under the ''Quality of the Project Evaluation'' criterion (§ 75.210(h)) to align terminology with the revised evidence definitions in 34 CFR part 77. Specifically, the regulations:

(1) Replace references to ''evidence of promise'' and ''strong theory'' with ''promising evidence'' and ''demonstrates a rationale,'' respectively.

(2) Align terminology with the revised definitions in 34 CFR 77.1(c) to include the term ''project component'' and clarify that the What Works Clearinghouse standards are described in the What Works Clearinghouse Handbook.

We are making these revisions to improve the menu of selection criteria and factors by better aligning them to the evidence-related definitions in 34 CFR part 77. We make these revisions in conjunction with the amendments to the definitions in 34 CFR part 77, which, as discussed elsewhere in this document, we also revise to align with the evidence provisions in section 8101(21) of the ESEA, as amended by the ESSA, and for clarity. The final regulations do not change the way the Secretary uses the current and new selection criteria and factors. The Secretary will continue to use selection criteria that are consistent with the purpose of the program and permitted under the applicable statutes and regulations.

II. Evidence Preferences and Priorities

§ 75.226 What procedures does the Secretary use if the Secretary decides to give special consideration to applications supported by strong evidence of effectiveness, moderate evidence of effectiveness, or evidence of promise?

Current Regulations: Under § 75.226, the Secretary may establish a competitive preference or absolute priority for projects supported by strong evidence of effectiveness, moderate evidence of effectiveness, or evidence of promise, as those terms are currently defined in 34 CFR part 77.

Final Regulations and Reasons: The Secretary makes technical revisions to the title and text of this section to describe procedures for giving special consideration to applications supported by strong, moderate, or promising evidence, which are the evidence-related terms used in the ESEA. We include definitions for these terms elsewhere in this document.

These technical changes ensure that discretionary grant programs authorized by the ESEA, as amended by the ESSA, can establish evidence-based priorities under § 75.226 and allow the Department the option to use one set of uniform evidence standards for all discretionary grant programs across each program's authorizing statute.

III. Evidence Definitions

Background: Section 77.1(c) establishes definitions that, unless a statute or regulation provides otherwise, apply to the regulations in title 34 of the Code of Federal Regulations and can be used in Department grant competitions. This section includes a number of definitions that support the Department's use of evidence in grant competitions. The ESSA amended the ESEA to include a new definition of ''evidence-based'' that necessitates changes to these definitions.

34 CFR Part 77

§ 77.1 Definitions That Apply to All Department Programs

Current Regulations: Section 77.1(c) establishes definitions that, unless a statute or regulation provides otherwise, apply to the regulations in title 34 of the Code of Federal Regulations and can be used in Department grant competitions.

Final Regulations and Reasons: We establish new, and revise some existing, definitions to (1) ensure alignment with provision in the ESEA, as amended by the ESSA, providing a single set of evidence definitions; and (2) make minor clarifying revisions to existing provisions. In these final regulations, we:

(1) Add a definition of ''evidence-based'' that incorporates the four levels of evidence in section 8101(21)(A) of the ESEA, as amended by the ESSA.

(2) Add a definition for ''project component'' as a single, clarifying term for what may be included in a project. The term clarifies that ''policy'' may be one component of a project; encompasses ''an activity, strategy, or intervention,'' to be consistent with the definition of ''evidence-based'' in section 8101(21) of the ESEA, as amended by the ESSA; and includes ''process,'' ''product,'' and ''practice,'' which were in the evidence definitions in 34 CFR 77.1(c) (*e.g.,* strong evidence of effectiveness) prior to these final regulations.

(3) Remove the definitions of ''large sample'' and ''multi-site sample'' and instead incorporate them into the new ''moderate evidence'' and ''strong evidence'' definitions, to streamline these definitions.

(4) Replace the term ''strong theory'' with the term ''demonstrates a rationale,'' as this is the fourth level of evidence in the definition of ''evidence-based'' in section 8101(21) of the ESEA, as amended by the ESSA.

(5) Replace the term ''evidence of promise'' with the term ''promising evidence,'' to align with the definition of ''evidence-based'' in section 8101(21) of the ESEA, as amended by the ESSA. In the definition of ''promising evidence,'' we clarify—

- How practice guides and intervention reports prepared by the What Works Clearinghouse (WWC), in alignment with the WWC standards incorporated in the definition, can provide promising evidence;
- How the Department already reviews single studies to determine whether they qualify under this level of evidence; and
- That certain quasi-experimental studies and experimental studies that do not meet WWC standards can qualify as promising evidence, as the previous ''evidence of promise'' definition implied.
- That correlational studies with statistical controls for selection bias must be well-designed and well-implemented to qualify as promising

evidence, as the ESEA, as amended by the ESSA, provides.

(6) Replace the term ''moderate evidence of effectiveness'' with the term ''moderate evidence,'' which is used in the ESEA definition of ''evidence-based.'' In the definition of ''moderate evidence,'' we clarify—

• How practice guides and intervention reports prepared by the WWC, in alignment with the WWC standards incorporated in the definition, can provide moderate evidence;

• How the Department already reviews single studies to determine whether they qualify under this level of evidence; and

• Through language regarding ''relevant findings,'' that there must be a link between the proposed activities, strategies, and interventions and specific statistically significant effects, as required under the definition of ''evidence-based'' in section 8101(21) of the ESEA, as amended by the ESSA.

(7) Replace the term ''randomized controlled trial'' with the term ''experimental study,'' to align with the definition of ''evidence-based,'' in section 8101(21) specifically with regard to ''strong evidence.'' In this new definition of ''strong evidence,'' we clarify the types of studies that can qualify as experimental studies—including, but not limited to, randomized controlled trials—as provided in the applicable WWC Handbook.

(8) Replace the term ''strong evidence of effectiveness'' with the term ''strong evidence,'' which is used in the definition of ''evidence-based'' in section 8101(21) of the ESEA, as amended by the ESSA. In the definition of ''strong evidence,'' we clarify—

• How practice guides and intervention reports prepared by the WWC, in alignment with the WWC standards incorporated in the definition, can provide promising evidence under the definition of ''evidence-based'' in section 8101(21) of the ESEA, as amended by the ESSA;

• How the Department already reviews single studies to determine whether they qualify under this level of evidence; and

• Through language regarding ''relevant findings,'' that there must be a link between the proposed activities, strategies, and interventions and specific statistically significant effects, as required under the definition of ''evidence-based'' in section 8101(21) of the ESEA, as amended by the ESSA.

(9) Replace the term ''What Works Clearinghouse Evidence Standards'' with the term ''What Works Clearinghouse Handbook,'' to clarify that the Handbook's procedures—not just standards—are relevant to evidence determinations, consistent with current practice. We also incorporate this Handbook, which provides a detailed description of the standards and procedures of the WWC, by reference. The WWC is an initiative of the U.S. Department of Education's National Center for Education Evaluation and Regional Assistance, within the Institute of Education Sciences (IES), which was established under the Education Sciences Reform Act of 2002. The WWC is an important part of IES's strategy to use rigorous and relevant research, evaluation, and statistics to inform decisions in the field of education. The WWC provides critical assessments of scientific evidence on the effectiveness of education programs, policies, products, and practices (referred to as ''interventions'') and a range of publications and tools summarizing this evidence. The WWC meets the need for credible, succinct information by reviewing research studies; assessing the quality of the research; summarizing the evidence of the effectiveness of programs, policies, products, and practices on student outcomes and other outcomes related to education; and disseminating its findings broadly. This Handbook is available to interested parties at the Web site address included in the regulation (*https://ies.ed.gov/ncee/wwc/Handbooks*).

(10) Make minor clarifying changes to the definition of ''logic model'' so it is more easily understood.

(11) Make minor clarifying changes to the definition of ''quasi-experimental design study'' to align with terminology in the revised § 77.1(c).

(12) Make minor clarifying changes to the definition of ''relevant outcome'' to align with terminology in the revised § 77.1(c).

Waiver of Proposed Rulemaking and Delayed Effective Date

Under the Administrative Procedure Act (APA) (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed regulations. However, these regulations make technical changes only and do not establish substantive policy. The regulations are therefore exempt from notice and comment rulemaking under 5 U.S.C. 553(b)(3)(B). However, the Department is providing a 30-day comment period and invites interested persons to participate in this rulemaking by submitting written comments. The Department will consider the comments received and may conduct additional rulemaking based on the comments.

The APA also generally requires that regulations be published at least 30 days before their effective date, unless the agency has good cause to implement its regulations sooner (5 U.S.C. 553(d)(3)). Again, because these final regulations are merely technical, there is good cause to make them effective on the day they are published.

Executive Orders 12866, 13563, and 13771

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

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

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

Under Executive Order 13771, for each new regulation that the Department proposes for notice and comment or otherwise promulgates that is a significant regulatory action under Executive Order 12866, it must identify two deregulatory actions. For Fiscal Year 2017, any new incremental costs associated with a new regulation must be fully offset by the elimination of existing costs through deregulatory actions. The final regulations are not a significant regulatory action. Therefore, the requirements of Executive Order 13771 do not apply.

We have also reviewed these regulations under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in

Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only on a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing these final regulations only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on an analysis of anticipated costs and benefits, the Department believes that these final regulations are consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

Potential Costs and Benefits

Under Executive Order 12866, we have assessed the potential costs and benefits of this regulatory action and have determined that these regulations would not impose additional costs. We believe any additional costs imposed by these final regulations will be negligible, primarily because they reflect technical changes which do not impose additional burden. Moreover, we believe any costs will be significantly outweighed by the potential benefits of making necessary clarifications and ensuring consistency among the Education Department General Administrative Regulations and section 8101(21) of ESEA, as amended by the ESSA.

Clarity of the Regulations

Executive Order 12866 and the Presidential memorandum ''Plain Language in Government Writing'' require each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these regulations easier to understand, including answers to questions such as the following:

- Are the requirements in the regulations clearly stated?
- Do the regulations contain technical terms or other wording that interferes with their clarity?
- Does the format of the regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- Would the regulations be easier to understand if we divided them into more (but shorter) sections? (A ''section'' is preceded by the symbol ''§ '' and a numbered heading; for example, § 75.210.)
- Could the description of the regulations in the **SUPPLEMENTARY INFORMATION** section of this preamble be more helpful in making the regulations easier to understand? If so, how?
- What else could we do to make the regulations easier to understand?

To send any comments that concern how the Department could make these regulations easier to understand, see the instructions in the **ADDRESSES** section.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations do not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act of 1995

The Paperwork Reduction Act of 1995 does not require you to respond to a collection of information unless it displays a valid OMB control number. We display the valid OMB control number assigned to a collection of information in final regulations at the end of the affected section of the regulations.

Intergovernmental Review

This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

List of Subjects

34 CFR Part 75

Accounting, Copyright, Education, Grant programs—education, Inventions and patents, Private schools, Reporting and recordkeeping requirements, Youth organizations.

34 CFR Part 77

Education, Grant programs—education, Incorporation by reference.

Dated: July 25, 2017.

Betsy DeVos,

Secretary of Education.

For the reasons discussed in the preamble, the Secretary amends parts 75 and 77 of title 34 of the Code of Federal Regulations as follows:

PART 75—DIRECT GRANT PROGRAMS

■ 1. The authority citation for part 75 continues to read as follows:

Authority: 20 U.S.C. 1221e–3 and 3474, unless otherwise noted.

■ 2. Section 75.210 is amended by:

■ a. Revising paragraphs (c)(2)(xxviii) and (xxix);

■ b. Adding paragraph (c)(2)(xxx); and

■ c. Revising paragraphs (h)(2)(viii) through (xii); and

■ d. Adding paragraph (h)(2)(xiii).

The revisions and addition read as follows:

§ 75.210 General selection criteria.

* * * * *

(c) * * *

(2) * * *

(xxviii) The extent to which the proposed project is supported by promising evidence (as defined in 34 CFR 77.1(c)).

(xxix) The extent to which the proposed project demonstrates a rationale (as defined in 34 CFR 77.1(c)).

(xxx) The extent to which the proposed project represents a faithful adaptation of the evidence cited in support of the proposed project.

* * * * *

(h) * * *

(2) * * *

(viii) The extent to which the methods of evaluation will, if well implemented, produce evidence about the project's effectiveness that would meet the What Works Clearinghouse standards without reservations as described in the What Works Clearinghouse Handbook (as defined in 34 CFR 77.1(c)).

(ix) The extent to which the methods of evaluation will, if well implemented, produce evidence about the project's effectiveness that would meet the What Works Clearinghouse standards with or without reservations as described in the What Works Clearinghouse Handbook (as defined in 34 CFR 77.1(c)).

(x) The extent to which the methods of evaluation will, if well implemented, produce promising evidence (as defined in 34 CFR 77.1(c)) about the project's effectiveness.

(xi) The extent to which the evaluation plan clearly articulates the key project components, mediators, and outcomes, as well as a measurable threshold for acceptable implementation.

(xii) The qualifications, including relevant training, experience, and independence, of the evaluator.

(xiii) The extent to which the proposed project plan includes sufficient resources to conduct the project evaluation effectively.

* * * * *

■ 3. Revise § 75.226 to read as follows:

§ 75.226 What procedures does the Secretary use if the Secretary decides to give special consideration to applications supported by strong, moderate, or promising evidence?

(a) As used in this section, ''strong evidence'' is defined in 34 CFR 77.1(c).

(b) As used in this section, ''moderate evidence'' is defined in 34 CFR 77.1(c).

(c) As used in this section, ''promising evidence'' is defined in 34 CFR 77.1(c).

(d) If the Secretary determines that special consideration of applications supported by strong, moderate, or promising evidence is appropriate, the Secretary may establish a separate competition under the procedures in 34 CFR 75.105(c)(3), or provide competitive preference under the procedures in 34 CFR 75.105(c)(2), for applications supported by—

(1) Evidence that meets the conditions in the definition of ''strong evidence'';

(2) Evidence that meets the conditions in the definition of ''moderate evidence''; or

(3) Evidence that meets the conditions in the definition of ''promising evidence.''

PART 77—DEFINITIONS THAT APPLY TO DEPARTMENT REGULATIONS

■ 3. The authority citation for part 77 continues to read as follows:

Authority: 20 U.S.C. 1221e–3 and 3474, unless otherwise noted.

■ 4. Section 77.1(c) is amended by:

■ a. Adding, in alphabetical order, a definition for ''Demonstrates a rationale''.

■ b. Removing the definition of ''Evidence of promise''.

■ c. Adding, in alphabetical order, definitions for ''Evidence-based'' and ''Experimental study''.

■ d. Removing the definition of ''Large sample''.

■ e. Revising the definition of ''Logic model''.

■ f. Adding, in alphabetical order, a definition for ''Moderate evidence''.

■ g. Removing the definitions of ''Moderate evidence of effectiveness'' and ''Multi-site sample''.

■ h. Adding, in alphabetical order, definitions for ''Project component'' and ''Promising evidence''.

■ i. Revising the definitions of ''Quasi-experimental design study'' and ''Relevant outcome''.

■ j. Adding, in alphabetical order, a definition for ''Strong evidence''.

■ k. Removing the definitions of ''Strong evidence of effectiveness'', ''Strong theory'', and ''What Works Clearinghouse Evidence Standards''.

■ l. Adding, in alphabetical order, a definition for ''What Works Clearinghouse Handbook''.

The additions and revisions read as follows:

§ 77.1 Definitions that apply to all Department programs.

* * * * *

(c) * * *

Demonstrates a rationale means a key project component included in the project's logic model is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes.

* * * * *

Evidence-based means the proposed project component is supported by one or more of strong evidence, moderate evidence, promising evidence, or evidence that demonstrates a rationale.

Experimental study means a study that is designed to compare outcomes between two groups of individuals (such as students) that are otherwise equivalent except for their assignment to either a treatment group receiving a project component or a control group that does not. Randomized controlled trials, regression discontinuity design studies, and single-case design studies are the specific types of experimental studies that, depending on their design and implementation (*e.g.,* sample attrition in randomized controlled trials and regression discontinuity design studies), can meet What Works Clearinghouse (WWC) standards without reservations as described in the WWC Handbook:

(i) A randomized controlled trial employs random assignment of, for example, students, teachers, classrooms, or schools to receive the project component being evaluated (the treatment group) or not to receive the project component (the control group).

(ii) A regression discontinuity design study assigns the project component being evaluated using a measured variable (*e.g.,* assigning students reading below a cutoff score to tutoring or developmental education classes) and controls for that variable in the analysis of outcomes.

(iii) A single-case design study uses observations of a single case (*e.g.,* a student eligible for a behavioral intervention) over time in the absence and presence of a controlled treatment manipulation to determine whether the outcome is systematically related to the treatment.

* * * * *

Logic model (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes.

* * * * *

Moderate evidence means that there is evidence of effectiveness of a key project component in improving a relevant outcome for a sample that overlaps with the populations or settings proposed to receive that component, based on a relevant finding from one of the following:

(i) A practice guide prepared by the WWC using version 2.1 or 3.0 of the WWC Handbook reporting a ''strong evidence base'' or ''moderate evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC using version 2.1 or 3.0 of the WWC Handbook reporting a ''positive effect'' or ''potentially positive effect'' on a relevant outcome based on a ''medium to large'' extent of evidence, with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single experimental study or quasi-experimental design study reviewed and reported by the WWC using version 2.1 or 3.0 of the WWC Handbook, or otherwise assessed by the Department using version 3.0 of the WWC Handbook, as appropriate, and that—

(A) Meets WWC standards with or without reservations;

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome;

(C) Includes no overriding statistically significant and negative effects on relevant outcomes reported in the study or in a corresponding WWC intervention report prepared under version 2.1 or 3.0 of the WWC Handbook; and

(D) Is based on a sample from more than one site (*e.g.,* State, county, city, school district, or postsecondary campus) and includes at least 350 students or other individuals across sites. Multiple studies of the same project component that each meet requirements in paragraphs (iii)(A), (B), and (C) of this definition may together satisfy this requirement.

* * * * *

Project component means an activity, strategy, intervention, process, product, practice, or policy included in a project. Evidence may pertain to an individual project component or to a combination of project components (*e.g.,* training teachers on instructional practices for English learners and follow-on coaching for these teachers).

* * * * *

Promising evidence means that there is evidence of the effectiveness of a key project component in improving a relevant outcome, based on a relevant finding from one of the following:

(i) A practice guide prepared by WWC reporting a ''strong evidence base'' or ''moderate evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC reporting a ''positive effect'' or ''potentially positive effect'' on a relevant outcome with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single study assessed by the Department, as appropriate, that—

(A) Is an experimental study, a quasi-experimental design study, or a well-designed and well-implemented correlational study with statistical controls for selection bias (*e.g.,* a study using regression methods to account for differences between a treatment group and a comparison group); and

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome.

* * * * *

Quasi-experimental design study means a study using a design that attempts to approximate an experimental study by identifying a comparison group that is similar to the treatment group in important respects. This type of study, depending on design and implementation (*e.g.,* establishment of baseline equivalence of the groups being compared), can meet WWC standards with reservations, but cannot meet WWC standards without reservations, as described in the WWC Handbook.

* * * * *

Relevant outcome means the student outcome(s) or other outcome(s) the key project component is designed to improve, consistent with the specific goals of the program.

* * * * *

Strong evidence means that there is evidence of the effectiveness of a key project component in improving a relevant outcome for a sample that overlaps with the populations and settings proposed to receive that component, based on a relevant finding from one of the following:

(i) A practice guide prepared by the WWC using version 2.1 or 3.0 of the WWC Handbook reporting a ''strong evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC using version 2.1 or 3.0 of the WWC Handbook reporting a ''positive effect'' on a relevant outcome based on a ''medium to large'' extent of evidence, with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single experimental study reviewed and reported by the WWC using version 2.1 or 3.0 of the WWC Handbook, or otherwise assessed by the Department using version 3.0 of the WWC Handbook, as appropriate, and that—

(A) Meets WWC standards without reservations;

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome;

(C) Includes no overriding statistically significant and negative effects on relevant outcomes reported in the study or in a corresponding WWC intervention report prepared under version 2.1 or 3.0 of the WWC Handbook; and

(D) Is based on a sample from more than one site (*e.g.,* State, county, city, school district, or postsecondary campus) and includes at least 350 students or other individuals across sites. Multiple studies of the same project component that each meet requirements in paragraphs (iii)(A), (B), and (C) of this definition may together satisfy this requirement.

* * * * *

What Works Clearinghouse Handbook (WWC Handbook) means the standards and procedures set forth in the WWC Procedures and Standards Handbook, Version 3.0 or Version 2.1 (incorporated by reference, see 34 CFR 77.2). Study findings eligible for review under WWC standards can meet WWC standards without reservations, meet WWC standards with reservations, or not meet WWC standards. WWC practice guides and intervention reports include findings from systematic reviews of evidence as described in the Handbook documentation.

* * * * *

■ 5. Section 77.2 is added to read as follows:

§ 77.2 Incorporation by Reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved material is available for inspection at Institute of Education Sciences, National Center for Education Evaluation and Regional Assistance by email at *Contact.WWC@ed.gov,* and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to *www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) Institute of Education Sciences, 550 12th Street SW., Washington, DC 20202, (202) 245–6940, *http://ies.ed.gov/ncee/wwc/Handbooks.*

(1) What Works Clearinghouse Procedures and Standards Handbook,

Version 3.0, March 2014, IBR approved for § 77.1.

(2) What Works Clearinghouse Procedures and Standards Handbook, Version 2.1, September 2011, IBR approved for § 77.1.

[FR Doc. 2017–15989 Filed 7–27–17; 4:15 pm]

BILLING CODE 4000–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AP06

Ensuring a Safe Environment for Community Residential Care Residents; Correction

AGENCY: Department of Veterans Affairs.

ACTION: Final rule; correction.

SUMMARY: The Department of Veterans Affairs is correcting a final rule that added to its medical regulations new standards that must be met by a Community Residential Care facility seeking approval by VA that was published in the **Federal Register** on July 25, 2017.

DATES: The correction is effective July 31, 2017.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Allman, Chief Consultant, Geriatrics and Extended Care Services (10P4G), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Ave. NW., Washington, DC 20420, (202) 461–6750. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: VA is correcting its final rule that added to its medical regulations new standards that must be met by a Community Residential Care facility seeking approval by VA.

In FR Doc. 17–15519 appearing on page 34408 in the **Federal Register** of Tuesday, July 25, 2017, the following corrections are made:

§ 17.63 [Corrected]

■ On page 34415, in the third column, amend § 17.63(j)(4)(i)(K) by removing the comma immediately following the word ''distribute''.

Approved:

Janet J. Coleman,

Chief, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2017–16034 Filed 7–28–17; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2016–0783; FRL–9965–45–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Regional Haze Best Available Retrofit Technology Measure for Verso Luke Paper Mill

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the State of Maryland. This revision pertains to a best available retrofit technology (BART) alternative measure for the Verso Luke Paper Mill (the Mill) submitted by the State of Maryland. Maryland requests new emissions limits for sulfur dioxide (SO_2) and nitrogen oxides (NO_X) for power boiler 24 at the Mill and a SO_2 cap on tons emitted per year for power boiler 25, while also requesting removal of the specific BART emission limits for SO_2 and NO_X from power boiler 25. The alternative BART measure will provide greater reasonable progress for SO_2 and NO_X for regional haze by resulting in additional emission reductions of 2,055 tons per year (tpy) of SO_2 and an additional 804 tpy of NO_X than would occur through the previously approved BART measure for power boiler 25, a BART subject source. No comments were received in response to EPA's proposed rulemaking notice published on May 30, 2017. This action is being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on August 30, 2017.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2016–0783. 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 whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *http://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Irene Shandruk, (215) 814–2166, or by email at *shandruk.irene@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Regional haze is impairment of visual range or colorization caused by air pollution, principally by fine particulate matter ($PM_{2.5}$), produced by numerous sources and activities, located across a broad regional area. The sources include, but are not limited to, major and minor stationary sources, mobile sources, and area sources including non-anthropogenic sources. These sources and activities may emit $PM_{2.5}$ (*e.g.* sulfates, nitrates, organic carbon, elemental carbon, and soil dust), and their precursors (*e.g.* SO_2, NO_X, and in some cases, ammonia and volatile organic compounds). $PM_{2.5}$ can also cause serious health effects and mortality in humans, and contributes to environmental effects such as acid deposition and eutrophication.

In the CAA Amendments of 1977, Congress established a program to protect and improve visibility in the Nation's national parks and wilderness areas. *See* CAA section 169A. Congress amended the visibility provisions in the CAA in 1990 to focus attention on the problem of regional haze. *See* CAA section 169B. EPA promulgated regional haze regulations (RHR) in 1999 to implement sections 169A and 169B of the CAA. These regulations require states to develop and implement plans to ensure reasonable progress towards improving visibility in mandatory Class I Federal areas.[1] *See* 64 FR 35714 (July 1, 1999); *see* also 70 FR 39104 (July 6, 2005) and 71 FR 60612 (October 13, 2006).

The RHR requires each state's regional haze implementation plan to contain emission limitations representing best available retrofit technology (BART) and schedules for compliance with BART for each source subject to BART, unless the state demonstrates that an emissions trading program or other alternative measure will achieve greater reasonable progress toward natural visibility conditions. The requirements for alternative measures are established at 40 CFR 51.308(e)(2).

In addition to demonstrating greater reasonable progress towards improving

[1] While Maryland has no Class I areas within its borders, there are several Class I areas nearby including Dolly Sods Wilderness Area and Otter Creek Wilderness Area in West Virginia; Brigantine Wilderness in New Jersey; Great Smoky Mountains National Park in North Carolina and Tennessee; James River Face and Shenandoah National Park in Virginia; Linville Gorge in North Carolina; and Mammoth Cave National Park in Kentucky.

visibility, among other things, the RHR also requires that all necessary emission reductions from a BART alternative take place during the period of the first long-term strategy for regional haze (*i.e.,* 2008–2018) and requires a demonstration that the emission reductions from the alternative measure will be surplus to the reductions from measures adopted to meet CAA requirements as of the baseline date of the SIP. 40 CFR 51.308(e)(2). The baseline date for regional haze SIPs is 2002. *See* Memorandum from Lydia Wegman and Peter Tsirigotis, 2002 Base Year Emission Inventory SIP Planning: 8-Hr Ozone, $PM_{2.5}$, and Regional Haze Programs, November 8, 2002. *http://www.epa.gov/ttn/oarpg/t1/memoranda/2002bye-gm.pdf. See* 79 FR 56322, 56328–29 (September 19, 2014) (proposing approval of alternative BART for Arizona SIP).

Maryland's regional haze SIP was submitted by the Maryland Department of the Environment (MDE) on February 13, 2012 and approved by EPA in June 2012. *See* 77 FR 39938 (June 13, 2012). This regional haze SIP included, among other measures, BART emission limits for power boiler 25 at the Verso Luke Paper Mill because power boiler 25 was a BART subject source. The BART emission limits which EPA had approved in June 2012 for power boiler 25 were 0.44 pounds per million British thermal units (lb/MMBtu) for SO_2, a 30-day rolling limit of 0.40 lb/MMBtu for NO_X, and 0.07 lb/MMBtu for particulate matter (PM).[2]

On May 30, 2017 (82 FR 24614), EPA published a notice of proposed rulemaking (NPR) for the State of Maryland. In the NPR, EPA proposed approval of the BART alternative measure for the Verso Luke Paper Mill. No comments were received in response to EPA's proposed rulemaking notice. The formal SIP revision (#16–14) was submitted by the State of Maryland on November 28, 2016.

II. Summary of SIP Revision

The SIP revision seeks to revise the BART strategy for the Verso Luke Paper Mill, specifically the emission limits for power boiler 25 for SO_2 and NO_X. MDE states that Verso Luke Paper Mill is eliminating the use of coal as a source of fuel used in power boiler 24 and replacing it with natural gas. MDE's SIP revision submittal seeks alternative BART emission limits for SO_2 and NO_X for power boiler 24, and seeks to remove the previously approved BART requirements for SO_2 and NO_X from power boiler 25 and replace them with new, alternative emission requirements. Specifically, for power boiler 24 at the Mill, Maryland's SIP revision seeks to establish (1) a new BART emission limit of 0.28 lb/MMBtu, measured as an hourly average for SO_2; (2) a new BART emission limit of 0.4 lb/MMBtu, measured on a 30-day rolling average for NO_X; and (3) associated monitoring, recordkeeping and reporting requirements. For power boiler 25, this SIP revision seeks to: (1) Remove the SO_2 BART emission limit approved by EPA in June 2012 and seeks to establish an annual SO_2 cap of 9,876 tons measured on a 12-month rolling average; (2) remove the NO_X BART emission limit but retain existing requirements under COMAR 26.11.14.07 applicable to the power boiler; and (3) impose associated monitoring, recordkeeping, and reporting requirements. The BART requirements for PM approved by EPA in June 2012 on power boiler 25 would remain unchanged.

MDE's analysis demonstrates that the alternative SO_2 BART measure (*i.e.* new SO_2 emission limit on power boiler 24; removal of approved SO_2 BART limit and new annual SO_2 cap on power boiler 25) would provide an additional 2,055 tpy in SO_2 emissions reductions (or 20% more emission reductions) than the tons per year to be reduced by the currently approved BART requirements on power boiler 25. MDE's analysis also shows that the alternative NO_X BART measure on power boiler 24 (with removed BART limit on power boiler 25) would provide an additional 804 tpy in NO_X emission reductions than the currently approved BART requirements on power boiler 25. Finally, MDE's analysis shows that the alternative NO_X BART measure on power boiler 24 would provide a 227 tons per ozone season NO_X benefit than would the currently approved BART requirements on power boiler 25.

Thus, with the additional SO_2 and NO_X emission reductions per year, EPA finds that the alternative SO_2 and NO_X BART emission limits on power boiler 24 (with the SO_2 tpy cap on power boiler 25) will provide for greater reasonable progress toward achieving natural visibility conditions than would be achieved through the currently approved BART emission limits on power boiler 25. EPA also finds the emission reductions from the new limits on power boiler 24 (and SO_2 tpy cap on power boiler 25) have been implemented before the end of the first regional haze planning period (*i.e.* 2018). In addition, the emission reductions from the proposed BART emission limits for power boiler 24 for SO_2 and NO_X are surplus to reductions resulting from CAA requirements as of the baseline date of the SIP or 2002. More information on Maryland's SIP submittal and on EPA's analysis of emission reductions from the alternative BART measure (including discussion of the reductions as implemented and surplus) is provided in the Technical Support Document (TSD) which is available online at *www.regulations.gov* for this rulemaking. Therefore, EPA finds Maryland's SIP revision for the alternative BART emission limits for SO_2 and NO_X for power boiler 24 (and SO_2 cap on power boiler 25) meet the requirements for an alternative BART measure in accordance with CAA section 169A and as established at 40 CFR 51.308(e)(2) in the RHR.

In addition, EPA finds that this SIP revision, which seeks to remove BART SO_2 and NO_X emission limits for power boiler 25 from the approved Maryland regional haze SIP, meets the requirements of CAA section 110(l) and will not interfere with attainment and maintenance of any NAAQS, reasonable further progress or any other applicable CAA requirement. EPA finds that Maryland has demonstrated that additional SO_2 and NO_X emission reductions will be achieved each year with the alternative BART emission limits on power boiler 24 and SO_2 tpy cap on power boiler 25, and as such, no interference with reasonable further progress or any NAAQS is expected. As discussed previously, the alternative BART emission limits on power boiler 24 meet other CAA requirements in section 169A and 40 CFR 51.308(e)(2). Other specific requirements and the rationale for EPA's proposed action are explained in the NPR as well as the technical support document (TSD) under Docket ID No. EPA–R03–OAR–2016–0783, available online at *www.regulations.gov,* and will not be restated here. No public comments were received on the NPR.

III. Final Action

EPA has reviewed Maryland's SIP revision seeking an alternative BART measure and emission limits for power boiler 24 (and SO_2 tpy cap on power boiler 25) compared to EPA's previously federally enforceable BART limits for SO_2 and NO_X on power boiler 25. EPA finds that the alternative BART measure for Verso Luke Paper Mill with SO_2 and NO_X limits as alternative BART on

[2] While EPA's approval of Maryland's regional haze SIP in 2012 included a PM limit for power boiler 25 of 0.07 lb/MMBtu, Maryland is not seeking to revise that PM limit for BART on power boiler 25 and thus the PM limit of 0.07 lb/MMBtu remains on power boiler 25. *See* 77 FR 39938. This rulemaking action pertains to adjusting the BART limits for SO_2 and NO_X for power boiler 25.

power boiler 24 will result in greater emission reductions in SO_2 and NO_X from the facility and provide greater reasonable progress and greater visibility improvement than the currently approved BART measure which applies solely to power boiler 25. Specifically, the conversion of power boiler 24 from a coal-burning boiler to a natural gas power boiler with new emission limits contained within a federally enforceable permit is expected to result in fewer SO_2 and NO_X emissions from the Mill. MDE's analysis shows that in comparison to the currently approved BART requirements on power boiler 25, the alternative BART measure on power boiler 24 of 0.28 lb/MMBtu, measured as an hourly average for SO_2 and 0.4 lb/MMBtu, measured on a 30-day rolling average for NO_X with the 9,876 SO_2 cap on power boiler 25, would provide (1) an additional 2,055 tpy in SO_2 emissions reductions; (2) an additional 804 tpy in NO_X emission reductions; and (3) a 227 tons per ozone season NO_X benefit. In addition, EPA finds that the alternative BART emission limits will result in reductions surplus to CAA requirements as of 2002 and will be implemented prior to the end of 2018. EPA is approving the November 28, 2016 SIP submittal as it meets the requirements in CAA section 169A and in 40 CFR 51.308(e)(2). EPA is also incorporating by reference the permit requirements for power boilers 24 and 25 issued August 17, 2016 for the Mill, which include alternative emission requirements, as well as monitoring, recordkeeping and reporting requirements.

EPA also finds that this SIP revision meets the requirements of CAA section 110(l) and will not interfere with attainment and maintenance of any NAAQS, reasonable further progress or any other applicable CAA requirement. Therefore, EPA is approving Maryland's November 28, 2016 SIP revision submittal as it meets CAA requirements.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this 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 application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

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. Section 804, however, exempts from section 801 the following types of rules: Rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). Because this is a rule of particular applicability, EPA is not required to submit a rule report regarding this action under section 801.

C. Petitions for Judicial Review

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 September 29, 2017. 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 pertaining to alternative BART emission limits for Verso Luke Paper Mill 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, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 13, 2017.

Cecil Rodrigues,

Acting Regional Administrator, Region III.

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 V—Maryland

■ 2. In § 52.1070, the table in paragraph (e) is amended by adding the entry ''Maryland Regional Haze Plan'' directly below the existing ''Maryland Regional Haze Plan'' entry that has a state submittal date of 2/13/2012 to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
*	*	*	*	* * *
Maryland Regional Haze Plan	Statewide	11/28/2016	7/31/2017 [insert **Federal Register** citation].	Establishes the alternative BART limits for Verso Luke Paper Mill power boiler 24 of 0.28 lb/MMBtu, measured as an hourly average for SO_2; and 0.4 lb/MMBtu, measured on a 30-day rolling average for NO_X; and 9,876 SO_2 cap on power boiler 25. Also incorporates by reference monitoring, recordkeeping and reporting requirements. These requirements replace BART measure originally approved on 2/13/12 for Luke Paper Mill.
*	*	*	*	* * *

[FR Doc. 2017–15979 Filed 7–28–17; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2014–0611; A–1–FRL–9963–89–Region 1]

Air Plan Approval; CT; Reasonably Available Control Technology for the 2008 Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the State of Connecticut. These SIP revisions consist of a demonstration that Connecticut meets the requirements to implement reasonably available control technology (RACT) for the two precursors of ground-level ozone, oxides of nitrogen (NO_X) and volatile organic compounds (VOCs), set forth by the Clean Air Act (CAA) with respect to the 2008 ozone standard. Additionally, we are approving three related regulations that limit air emissions of NO_X from sources within the State. This action is being taken in accordance with the Clean Air Act.

DATES: This rule is effective on August 30, 2017.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2014–0611. 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, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available at *http://www.regulations.gov* or at the U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Bob McConnell, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100 (mail code: OEP05–2), Boston, MA 02109–3912, telephone number (617) 918–1046, fax number (617) 918–0046, email *mcconnell.robert@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

I. Background and Purpose

On April 6, 2017 (82 FR 16772), EPA published a Notice of Proposed Rulemaking (NPR) for the State of Connecticut. The NPR proposed approval of a demonstration that Connecticut meets the RACT requirements for NO_X and VOCs, set forth by the Clean Air Act with respect to the 2008 ozone standard. Additionally, Connecticut also submitted to EPA and we proposed approval of portions of a revised regulation limiting NO_X emissions from municipal waste combustors (MWCs), a regulation limiting NO_X emissions from major sources of air emissions, and a regulation limiting emissions from non-major sources of NO_X emissions. The State submitted its RACT demonstration on July 18, 2014, the revised MWC regulation on September 16, 2016, and the regulations limiting NO_X emissions from major and non-major sources on January 24, 2017. By letter dated March 31, 2017, Connecticut withdrew a number of provisions from these submittals that do not pertain to NO_X or VOC control requirements, and therefore are not germane to this action.

The specific details of Connecticut's RACT certification for the 2008 ozone NAAQS and its three NO_X regulations, as well as the rationale for our proposed approval are explained in the NPR and will not be restated here. We received a total of six public comments in response to the NPR. One public comment was in favor of our proposal and the others either were irrelevant to our proposed action and/or lacked sufficient specificity with respect to the SIP action being proposed, failing to articulate what the commenter believed EPA should do to change or revise its proposed approval. All of the comments received are included in the docket for today's action.

II. Final Action

EPA is approving Connecticut's demonstration that it meets the CAA RACT requirements for NO_X and VOCs for purposes of the 2008 ozone standard, and is also approving portions of a revised regulation limiting NO_X emissions from MWCs, and regulations limiting NO_X emissions from major and minor sources of air emissions, as revisions to the Connecticut SIP. Additionally, we are approving a number of minor edits made to existing parts of Connecticut's air pollution control regulations that were updated to make citations correctly reference the State's newly adopted regulations. Last, we are approving a number of negative

declarations for Control Technique Guidelines categories for which Connecticut asserts no facilities exist within its borders.

III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the sections of the State of Connecticut Regulation of Department of Energy and Environmental Protection noted in this final rulemaking. The EPA has made, and will continue to make, these documents generally available through *http://www.regulations.gov.*

IV. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 29, 2017. 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, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 5, 2017.

Deborah A. Szaro,

Acting Regional Administrator, EPA New England.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart H—Connecticut

■ 2. Section 52.370 is amended by
■ a. adding paragraph (c)(90)(i)(B);
■ b. adding paragraph (c)(97)(i)(B); and
■ c. adding paragraph (c)(116) to read as follows:

§ 52.370 Identification of plan.

* * * * *

(c) * * *

(90) * * *

(i) * * *

(B) Section 22a–174–38, subsections (a), (c), (d), (i), (j), (k), and (l) were revised as published in the Connecticut Law Journal, volume 78, no. 17, on October 25, 2016. Subsection (d) is removed from the SIP without replacement. See paragraph (116)(i)(A).

* * * * *

(97) * * *

(i) * * *

(B) Section 22a–174–22c, subsection (g)(3) is removed from the SIP without replacement effective December 22, 2016. See paragraph (116)(i)(B).

* * * * *

(116) Revisions to the State Implementation Plan submitted by the Connecticut Department of Energy and Environmental Protection on September 16, 2016, and January 24, 2017.

(i) *Incorporation by reference.* (A) Regulations of Connecticut State Agencies, Administrative Regulation of the Department of Energy and Environmental Protection, Municipal Waste Combustors, revisions to section 22a–174–38 as published in the Connecticut Law Journal, volume 78, no. 17, on October 25, 2016.

(1) Subsection (c), subdivision (8);

(2) Subsection (c), subdivisions (16), and (17);

(3) Subsection (d);

(4) Subsection (i), subdivisions (4)(E) and (J);

(5) Subsection (i), subdivision (5);

(6) Subsection (j), subdivision (4);

(7) Subsection (k), subdivision (9) with the exceptions of the phrase ''particulate matter, opacity, cadmium, lead, mercury, dioxin/furan emissions, hydrogen chloride, fugitive ash and'' and the sentence ''The maximum demonstrated municipal waste combustor unit load and maximum demonstrated particulate matter control device temperature shall be recorded for the initial performance test for dioxin/furan emissions for each particulate matter control device.''; and subdivision (10), with the exceptions of the phrase ''for particulate matter, cadmium, lead, mercury, dioxin/furan emissions, hydrogen chloride, fugitive ash and'' and the sentence ''The maximum demonstrated municipal waste combustor unit load and maximum demonstrated particulate matter control device temperature (for each particulate matter control device) shall be recorded for the initial performance test for dioxin/furan emissions.''

(8) Subsection (l), subdivision (3)(A)(i) with the exception of the phrase ''particulate matter, opacity, cadmium, lead, mercury, dioxin/furan emissions, hydrogen chloride, fugitive ash and''; (3)(A)(ii), with the exceptions of the term ''sulfur dioxide'' and the phrase ''carbon monoxide, municipal waste combustor unit load, particulate matter control device inlet temperature and''; (3)(A)(iv); (3)(A)(v), with the exceptions of the term ''sulfur dioxide'' the phrase ''carbon monoxide, municipal waste combustor unit load, particulate matter control device temperature and'' and the phrase ''carbon mass feed rate and''; (3)(A)(vi), with the exceptions of the term ''sulfur dioxide'' the phrase ''carbon monoxide, municipal waste combustor unit load, particulate matter control device temperature and'' and the phrase ''carbon mass feed rate and''; (B), with the exception of the phrase ''and (A)(iii)''; and (C).

(9) Subsection (l), subdivision (6), with the exceptions of the phrase ''particulate matter, opacity, cadmium, lead, mercury, dioxin/furan emissions, hydrogen chloride'' and the term ''or fugitive ash''.

(10) Subsection (a).

(B) Regulation of the Department of Energy and Environmental Protection Concerning NO_X Emissions from Fuel-Burning Emission Units, effective December 22, 2016.

(1) Section 22a–174–22e, Control of nitrogen oxides emissions from fuel-burning equipment at major stationary sources of nitrogen oxides, with the exception of, within paragraph (l)(7), the phrase ''or under procedures in RCSA section 22a–174–5(d).'';(2) Section 22a–174–22f, High daily NO_X emitting units at non-major sources of NO_X;

(3) Section 22a–174–18,, revised subsection (j)(6);

(4), Section 22a–174–8(b)(2);

(5) Section 22a–174–22c, subsection (g)(3);

(6) Section 22a–174–38, revised subsections (b)(1) through (6).

■ 3. Section 52.375 is amended by adding paragraph (h) to read as follows:

§ 52.375 Certification of no sources.

* * * * *

(h) In its July 18, 2014 submittal to EPA pertaining to reasonably available control technology requirements for the 2008 8-hour ozone standard, the State of Connecticut certified to the satisfaction of EPA that no sources are located in the state that are covered by the following Control Technique Guidelines:

(1) Automobile coatings;

(2) Large petroleum dry cleaners;

(3) Fiberglass boat manufacturing;

(4) Equipment leaks from natural gas and gasoline processing plants;

(5) Petroleum refineries;

(6) Control of refinery vacuum producing systems;

(7) Wastewater separators and process unit turnarounds; and

(8) Flatwood paneling coatings.

■ 4. Section 52.377 is amended by adding paragraph (q) to read as follows:

§ 52.377 Control strategy: Ozone.

* * * * *

(q) Approval—Revisions to the Connecticut State Implementation Plan (SIP) submitted on July 18, 2014. The SIP revision satisfies the requirement to implement reasonably available control technology (RACT) for sources of volatile organic compounds (VOC) and oxides of nitrogen (NO_X) for purposes of the 2008 ozone standard. Specifically, the following sections of the Regulations of Connecticut State Agencies are approved for this purpose: For VOC RACT, 22a–174–20, Control of Organic Compound Emissions, 22a–174–30, Dispensing of Gasoline/Stage I and Stage II Vapor Recovery, and 22a–174–32, RACT for Organic Compounds; for NO_X RACT, 22a–174–22, Control of nitrogen oxide emissions, 22a–174–22e, Control of nitrogen oxide emissions from fuel burning equipment at major sources, 22a–174–22f, High daily NO_X emitting units at non-major sources of nitrogen oxides, and 22a–174–38, Municipal Waste Combustors.

■ 5. In § 52.385, Table 52.385 is amended by adding new entries for state citations for 22a–174–22e, Control of nitrogen oxides emissions from fuel-burning equipment at major stationary sources of nitrogen oxides, and for 22a–174–22f, High daily NO_X emitting units at non-major sources of NO_X, and by adding rows to the existing entries of state citations 22a–174–8, 22a–174–18, 22a–174–22c, and 22a–174–38 in numerical order to read as follows:

§ 52.385 EPA-approved Connecticut regulations.

* * * * *

TABLE 52.385—EPA-APPROVED REGULATIONS

Connecticut state citation	Title/subject	Dates		**Federal Register** citation	Section 52.370	Comments/description
		Date adopted by State	Date approved by EPA			
*	*	*	*	*	*	*
22a–174–8	Compliance Plans and Schedules.	12/22/16	7/31/17	[Insert **Federal Register** citation].	(c)(116)	Minor edit to update citation.
*	*	*	*	*	*	*
22a–174–18	Control of particulate emissions.	12/22/16	7/31/17	[Insert **Federal Register** citation].	(c)(116)	Minor edit to update citation.

TABLE 52.385—EPA-APPROVED REGULATIONS—Continued

Connecticut state citation	Title/subject	Dates		Federal Register citation	Section 52.370	Comments/description
		Date adopted by State	Date approved by EPA			
*	*	*	*	*	*	*
22a–174–22c	The Clean Air Interstate Rule (CAIR) Nitrogen Oxides (NO_X) Ozone Season Trading Program.	12/22/16	7/31/17	[Insert **Federal Register** citation].	(c)(116)	Minor edit to update citation.
22a–174–22e	Control of nitrogen oxides emissions from fuel-burning equipment at major stationary sources of nitrogen oxides.	12/22/16	7/31/17	[Insert **Federal Register** citation].	(c)(116)	New regulation applicable to major sources of NO_X.
22a–174–22f	High daily NO_X emitting units at non-major sources of NO_X.	12/22/16	7/31/17	[Insert **Federal Register** citation].	(c)(116)	New regulation applicable to non-major sources of NO_X.
*	*	*	*	*	*	*
22a–174–38	Municipal Waste Combustors.	8/2/16	7/31/17	[Insert **Federal Register** citation].	(c)(116)	Portions of previously approved regulation were revised, primarily to incorporate tightened NO_X emission limit for mass burn water-walled units.
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[FR Doc. 2017–15716 Filed 7–28–17; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 161220999–7682–02]

RIN 0648–BG52

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Groundfish Fishery; Fishing Year 2017; Recreational Management Measures

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

ACTION: Final rule.

SUMMARY: This action sets the recreational management measures for Gulf of Maine cod and haddock for the remainder of the 2017 fishing year. This action prohibits recreational possession of cod, reduces the haddock bag limit, and implements a new closed season for haddock in the fall. The intended effect of this action is to reduce catch of cod and haddock in order to ensure that fishing year 2017 recreational catch limits are not exceeded.

DATES: Effective July 27, 2017.

ADDRESSES: Copies of a supplemental environmental assessment (EA) to Framework Adjustment 55 to the Northeast Multispecies Fishery Management Plan prepared by the Greater Atlantic Regional Fisheries Office and Northeast Fisheries Science Center; and the Framework 55 EA prepared by the New England Fishery Management Council for this rulemaking are available from: John K. Bullard, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. The Framework 55 EA and supplement are also accessible via the Internet at: *https://www.greateratlantic.fisheries.noaa.gov/regs/2016/March/16mulfw55ea.pdf* and *https://www.greateratlantic.fisheries.noaa.gov/regs/2016/March/160212_rec_measures_draft_ea.pdf*. These documents are also accessible via the Federal eRulemaking Portal: *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Emily Keiley, Fishery Management Specialist, phone: 978–281–9116; email: *Emily.Keiley@noaa.gov*.

SUPPLEMENTARY INFORMATION:

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1. Fishing Year 2017 Recreational Management Measures

Background

Statutory Authority

Under the Northeast Multispecies Fishery Management Plan (FMP), sub-annual catch limits (sub-ACL) for the recreational fishery are established for each fishing year for Gulf of Maine (GOM) cod and haddock. The regulations at 50 CFR 648.89(f)(3) authorize the Regional Administrator, in consultation with the New England Fishery Management Council (NEFMC), to modify the recreational management measures for the upcoming fishing year to ensure that the recreational fishery achieves, but does not exceed, the recreational fishery sub-ACLs. The proposed rule for this action (82 FR 24086; May 25, 2017) provides details

on the consultation with the NEFMC and how the NEFMC developed its recommendations; that information is not repeated here.

Council's Proposed Measures

Because of repeated recreational fishery sub-ACL overages (haddock the last five years and cod three of five years) and the model's prediction that the NEFMC's recommended measures have only a 50-percent probability of keeping haddock catch below the sub-ACL, we considered whether it may be prudent to implement a more conservative fall closure that would likely have a higher probability of constraining haddock catch to the sub-ACLs. There are four primary reasons that the Council's proposed measures would sufficiently constrain catch to the sub-ACL's and were more consistent with the FMPs goals and objectives than the closed area measure we presented: (1) The Council's measures include a new fall closed season, cod prohibition, and a more conservative haddock bag limit; (2) improved information used in the bioeconomic model this year provides greater confidence in its predictions compared to previous years; (3) the interactions between GOM cod and haddock and the status of each of these stocks; and (4) newly available commercial catch data show a strong likelihood that overall GOM haddock catch will be under the total ACL for 2016 and, that the recreational sub-ACL and AM system combined with the overall ACL is effectively constraining catch.

We presented a more conservative closure season for comments to closely consider whether the Council's proposed accountability measures would sufficiently account for management uncertainty, prevent GOM cod and haddock catch overages, and provide an opportunity for the fishery to attain its allowable catch. We have determined that the more conservative measure is not necessary. The measures proposed by the Council are more conservative than the 2016 management measures. The possession of cod is being prohibited, the haddock bag-limit has been reduced, and a new fall closure is being implemented. We expect that these measures will allow the recreational fishery to achieve, but not exceed their sub-ACLs.

We also considered the improved performance of the model. The model projects recreational catch using economic information from an angler choice experiment survey and biological information about the current stock structure for the GOM cod and haddock stocks with historical catchability data from recreational anglers. Recent modifications to the model, including the incorporation of new data, improved its ability to accurately estimate recreational catches, and thus increases our confidence in the management measures based on its output. Specifically, the model now includes data from 2015, when cod possession was prohibited for the first time, and as a result, the model is better able to estimate the impact of prohibiting cod on the number of angler trips and catch of cod and haddock. While we have relied on the model using similar buffers in the past, the model is now improved, providing greater confidence in the outputs.

When evaluating the merit of each fall closure option, we considered the impacts on both haddock and cod. GOM cod is overfished and overfishing is occurring, but GOM haddock is a healthy stock. The more conservative closed area we sought comments on is estimated to have an increased probability of constraining GOM haddock catch to the sub-ACL (70 percent), but is projected to result in slightly increased GOM cod catch. Given the poor status of GOM cod, an option that is projected to increase GOM cod catch is a concern. We determined that the risk associated with increasing GOM cod catch outweighed the potential benefits of a slightly higher probability of limiting GOM haddock catch to the sub-ACL especially given the model improvements.

Last, newly available commercial catch data for 2016 show that overall catch is being effectively constrained. The newly available data shows that that the total commercial catch for GOM haddock was only 66 percent of the commercial ACL. The recreational sub-ACL is only a small portion of the overall ACL. Thus, despite a relatively minor overage in the recreational fishery, total 2016 GOM haddock catch, is expected to be below the overall ACL.

Fishing Year 2017 Recreational Measures

Because the recreational measures currently in place for GOM cod and haddock are not expected to constrain fishing year 2017 catch to the sub-ACLs, we are adjusting management measures for the remainder of the fishing year, as recommended by the NEFMC. Effective July 27, 2017, recreational possession of GOM cod will be prohibited. The minimum size for GOM haddock is unchanged, but the bag limit is reduced from 15 fish to 12 fish, and a fall closed season has been added to the existing spring closure. These measures are summarized in Table 1, along with information on the current measures for comparison.

TABLE 1—GOM COD AND HADDOCK RECREATIONAL MANAGEMENT MEASURES FOR FISHING YEAR 2017 AND STATUS QUO (FISHING YEAR 2016) MEASURES

Stock	Current measures			New 2017 measures		
	Per day possession limit (fish per angler)	Minimum fish size	Season when possession is permitted	Per day possession limit (fish per angler)	Minimum fish size	Season when possession is permitted
GOM Cod	1	24 inches (61.0 cm).	August 1–September 30	Possession Prohibited Year-Round		
GOM Haddock.	15	17 inches (43.2 cm).	Year Round Except March 1–April 14.	12	17 inches (43.2 cm).	May 1–September 16, November 1–February 28 and April 15–April 30.

Analysis

Recreational catch and effort data are estimated by the Marine Recreational Information Program (MRIP). A peer-reviewed bioeconomic model, developed by the Northeast Fisheries Science Center, was used to estimate 2017 recreational GOM cod and haddock mortality under various

combinations of minimum sizes, possession limits, and closed seasons. Even when incorporating zero possession of GOM cod, the model estimates that the status quo measures for GOM haddock are not expected to constrain the catch of haddock, or the bycatch of cod, to the 2017 catch limits. Therefore, we are implementing more restrictive measures. Additional details are provided in the Supplemental EA (see **ADDRESSES**) and the proposed rule, and are not repeated here.

The final measures implemented by this action for the 2017 fishing year, as recommended by the NEFMC, are expected to result in a decrease in the number of trips taken by anglers, and decreased catch, in comparison to retaining the current measures, which is projected to allow the recreational fishery to reach, but not exceed, the 2017 recreational sub-ACLs (Table 2).

TABLE 2—SUMMARY OF THE MODEL ESTIMATES OF CATCH AND THE LIKELIHOOD OF CATCH REMAINING BELOW THE SUB-ACLS FOR THE STATUS QUO MEASURES AND THE 2017 MEASURES

Measures	Predicted haddock catch (mt)	Probability haddock catch below sub-ACL (%)	Predicted cod catch (mt)	Probability cod catch below sub-ACL (%)
New 2017 Measures	1,160	50	147	78
Status Quo	1,299	0	292	0

2. Regulatory Corrections and Other Measures Under Regional Administrator Authority

We have made numerous administrative changes under the authority of section 305(d) of the Magnuson-Stevens Fishery Conservation and Management Act that are necessary and consistent with the FMP's goals and objectives. In § 648.89(b), we added an exception to the minimum fish sizes for GOM cod and haddock to allow vessels to transit the GOM Regulated Mesh Area while in possession of cod and haddock caught outside the area, provided those fish meet the minimum sizes specified for fish caught outside the area. Amendment 16 to the FMP included seasonal closures of the GOM recreational fishery for cod and haddock, and also implemented a possession limit exemption to allow vessels to transit the GOM when it was closed while in possession of fish legally caught outside the area. At that time, there was a single minimum size for cod, and a single minimum size for haddock, regardless of where the fish were caught and the transiting provision included in Amendment 16 did not address minimum fish size restrictions.

Subsequently, we changed the minimum sizes for GOM cod and haddock as part of the proactive accountability measures. We adjust the recreational measures for only GOM cod and haddock because these are the only stocks allocated a recreational sub-ACL. This has created a complicated system in which vessels may transit the GOM Regulated Mesh Area with fish legally caught outside the area in excess of the GOM possession limits, but those vessels must comply with the most restrictive minimum size of the two areas, rather than the minimum size applicable to where the fish were caught. The intent of this change is to simplify the existing transiting exemption by allowing any cod and haddock legally caught outside the GOM to be possessed by vessels transiting the GOM to ensure consistent implementation of the existing transiting provision.

In § 648.89(e), we revised the text specifying the requirements for the letters of authorization allowing charter and party boats to fish in the GOM closed areas and the Nantucket Lightship Closed Area to improve readability. In paragraph (e)(3), we also corrected the name of the NMFS office issuing letters of authorization from the ''Northeast Regional Office'' to the ''Greater Atlantic Regional Fisheries Office.''

In § 648.89(f)(2)(ii), we removed text prohibiting the Regional Administrator from adjusting the possession limit for GOM cod while recreational possession of GOM cod was prohibited by the Northeast Multispecies FMP. In 2016, Framework Adjustment 55 removed this prohibition, but the final rule implementing Framework Adjustment 55 inadvertently failed to remove this text. This change is intended to correct the regulations to accurately reflect the NEFMC's intent in Framework Adjustment 55.

Comments and Responses

We received 67 comments on the proposed 2017 recreational measures. Two comments received were not germane to the proposed measures. We received pertinent comments from the NEFMC, the Massachusetts Division of Marine Fisheries, the New Hampshire Fish and Game Department, the Stellwagen Bank Charter Boat Association, and 63 members of the public.

Timing

Comment 1: The New Hampshire Fish and Game Department, the Stellwagen Bank Charter Boat Association, and 31 individuals submitted comments regarding the publication of the proposed rule after the May 1 start of the 2017 fishing year. The New Hampshire Fish and Game Department expressed concern that the publication of the proposed rule after the start of the fishing year would exacerbate the existing timing problems of states attempting to match federal measures and inform anglers, and for-hire businesses attempting to attract business before knowing the regulations. The Stellwagen Bank Charter Boat Association and 30 individuals expressed disappointment because they feared that late implementation of the changes to the recreational measures would undermine the work of the NEFMC and its Recreational Advisory Panel (RAP) to develop and provide recommendations that would prevent catch from exceeding the quotas. The Stellwagen Bank Charter Boat Association and 30 individuals also urged that recreational anglers should not be subject to any further restrictions in the haddock bag limit or increases in the haddock minimum size in fishing year 2018 as a result of late implementation of changes in fishing year 2017. One individual commented that we should not change measures mid-season because business owners and recreational anglers have made financial decisions based on the current regulations.

Response: We agree that these timing issues make it difficult for the for-hire fleet to market and book trips, hamper the ability of states to implement complementary recreational measures, and create challenges for recreational

anglers to be informed of the latest regulations. The timing of changes to the recreational measures has been an issue for several years. MRIP collects information on recreational catch and effort. This information is processed in 2-month 'waves' and preliminary data is available six weeks after the end of each wave. Because of this, preliminary catch through October (which includes the majority of annual recreational groundfish activity) is first available after mid-December. As a result, January is the earliest we are able to present an analysis of the MRIP information and any potential changes that may be necessary for the next fishing year. This creates a compressed period for consideration of options, the public NEFMC consultation process, and proposed and final rulemaking. Because of this timeline, recreational measures for the new fishing year are generally not finalized until just prior to the start of the fishing year.

Although it is not ideal to change the recreational measures after the start of the fishing year this year, it is necessary that the revised measures be implemented before the recreational cod season opens. The recreational cod season is closed under status quo measures until August 1. While late implementation is not ideal, the timing of this action will still effectively prohibit the retention of cod in the recreational fleet.

Because of the challenging timeline of the current recreational process, we are working with the NEFMC to consider possible ways to modify the regulatory process so regulations for the recreational fishery can be finalized sooner. Changes to the recreational process would be incorporated into Framework 57, which is intended to be implemented for the 2018 fishing year. Additionally, any changes to the recreational measures for fishing year 2018 would be based on the 2018 catch limits and an analysis of expected catch in 2018.

NMFS Additional Option for a September Closure

Comment 2: The Stellwagen Bank Charter Boat Association and 30 individuals alleged that the reason the agency proposed an alternative September closure for haddock was because implementing the reduced haddock bag limit after May 1 would result in increased catch. One additional individual requested that we inform the recreational community of our reasons for the measures that were proposed.

Response: As discussed in the proposed rule, we sought comments on the effects of a more conservative fall closure on the fishery in comparison to the Council's proposed closure to address concerns about the recreational fishery's recent history of exceeding the GOM cod and haddock sub-ACLs. A U.S. District Court considered a history of overages and the effectiveness of accountability measures in the Gulf of Mexico red snapper fishery (*Guiondon* v. *Pritzker, 2014*) and struck down the accountability measure because they did not sufficiently ensure the limits would not be exceeded. We presented a more conservative closure season for comments to closely consider whether the Council's proposed accountability measures would sufficiently account for management uncertainty, prevent GOM cod and haddock catch overages, and provide an opportunity for the fishery to attain its allowable catch. As discussed in the preamble, we have determined that the Council's proposed measures sufficiently constrain catch and are more consistent with the FMP's goals and objectives.

Comment 3: The NEFMC, the Massachusetts Division of Marine Fisheries, and the New Hampshire Fish and Game Department, and one individual commented that the issues in the *Guindon* v. *Pritzker* case are distinct from the recreational fishery for GOM cod and haddock, and that measures more conservative than the suite recommended by the NEFMC are not necessary or justified. The commenters also noted that the additional NMFS alternative in the proposed rule would not provide a clear conservation benefit in comparison to the NEFMC's recommended suite of measures.

Response: We agree that the recreational fishery for GOM cod and haddock and the suite of management measures for the fishery is distinct from the *Guindon* v. *Pritzker* case. Further, the GOM haddock stock is healthy and that the total ACL has not been fully harvested in the last 2 years. We considered stock status when evaluating the alternatives and, as discussed in the preamble, are implementing the NEFMC's recommended measures rather than the more conservative September closure for haddock. The model predicts that these measures have a 78-percent chance that catch of the rebuilding GOM cod stock will not exceed the recreational quota, and a 50-percent chance that the catch of the abundant and healthy GOM haddock stock will achieve, but not exceed the recreational quota. While the GOM haddock stock is healthy, the GOM cod stock is overfished and estimated to be only 4–6 percent of the target population size. Given the differences in the sizes and health of these two stocks, the final 2017 measures appropriately balance the risk of exceeding the quotas with the goal of achieving the quotas and providing the greatest overall benefit to the nation.

The Bioeconomic Model and Uncertainty

Comment 4: The Massachusetts Division of Marine Fisheries and the New Hampshire Fish and Game Department commented that the bioeconomic model fails to account for variance in the underlying MRIP data and uncertainty in the model inputs because it uses point estimates. The NEFMC commented that, in 2015, when recreational possession of cod was prohibited for the first time, the bioeconomic model overestimated cod catch and angler effort, and that a cod prohibition in 2017 could again result in lower actual angler effort than the model has predicted.

Response: The bioeconomic model uses point estimates of catch from MRIP and currently does not incorporate measures of uncertainty in the MRIP data, although it might be possible to incorporate some measures of uncertainty in the future. As a result, the the model may underestimate or overestimate catch and angler trips in any given year. In recent years, the model has underestimated haddock and cod catch, with one exception in 2015. Although the bioeconomic model overestimated cod catch and the number of angler trips in 2015, it is unlikely to recur in 2017. The model had likely overestimated cod catch because at that time the model did not take into account factors that we expected would keep cod catch low, including a prohibition on retention of cod and the ability of vessels to avoid cod while targeting other species. However, we expect the bioeconomic model to better estimate the effect of prohibiting cod possession on total cod catch and the number of angler trips in 2017 because the model now incorporates data from 2015.

Although there are uncertainties in the bioeconomic model, the Northeast Multispecies FMP incorporates both scientific uncertainty and management uncertainty in setting annual catch limits. These uncertainty buffers increase the likelihood of achieving management targets and reduce the risk of overfishing. Among other factors discussed in the preamble, the incorporation of scientific and management uncertainty already built into setting recreational catch limits was a consideration in our determination to adopt the less conservative measures for haddock.

Comment 5: The New Hampshire Fish and Game Department and the Massachusetts Division of Marine Fisheries commented that we should address uncertainty in the GOM cod and haddock recreational fishery in a similar manner to the Atlantic States Marine Fisheries Commission's approach to using point estimates in the black sea bass fishery. Specifically, the New Hampshire Fish and Game Department recommended that we compare MRIP harvest estimates with a percent standard error to the recreational sub-ACLs and retain the status quo recreational measures for the next year if the recreational quota was within the percent standard error of the MRIP harvest estimate. The Massachusetts Division of Marine Fisheries also urged that we consider the Atlantic States Marine Fisheries Commission's approach to summer flounder. Specifically, using multiple years of MRIP data and incorporating standard errors around the MRIP catch estimates when developing recreational measures.

Response: The bioeconomic model uses point estimates of recreational catch and effort from MRIP and produces point estimates that may underestimate or overestimate catch and angler trips. At the request of the New Hampshire Fish and Game Department, we provided an estimate of model uncertainty for the two options proposed. That estimate did not include uncertainty in the MRIP data, but did incorporate some sources of uncertainty in the model simulations. While the estimate is informative, additional work should be done before determining whether or not the bioeconomic model can incorporate uncertainty. Amendment 16 to the Northeast Multispecies FMP requires that recreational catch is calculated consistent with the catch used in the stock assessment. At this time, the stock assessments for GOM cod and haddock do not incorporate separate calculations of uncertainty for MRIP catch estimates. In evaluating possible changes to the recreational management process in Framework 57, the NEFMC could consider changes to the method for determining when AMs are triggered.

Haddock Measures

Comment 6: The New Hampshire Fish and Game Department urged us to maintain the current haddock measures, in conjunction with prohibiting recreational possession of cod (analyzed and presented to the NEFMC as Option 1), because the GOM haddock stock is not overfished and the haddock quota is increasing. Additionally, New Hampshire contended that overfishing would not occur if the recreational fishery caught the amount of haddock predicted by the bioeconomic model for this scenario (1,288 mt) because total catch (including all other sectors catching their full quotas) would still be less than the acceptable biological catch due to the buffers between the acceptable biological catch and the catch limits. Further, New Hampshire argued that the recreational haddock quota, 1,160 mt, was within the 95-percent confidence interval of the model's predicted haddock catch for Option 1. The Massachusetts Division of Marine Fisheries (MA DMF) also commented that the recreational haddock quota for 2017 was within the 95-percent confidence interval for Option 1, but supported the NEFMC's recommended haddock measures, rather than the status quo haddock measures.

Response: We disagree that the status quo haddock measures should be maintained. While the GOM haddock stock is healthy and growing, we are still obligated to set measures we expect will achieve, but not exceed the catch limit. As explained in our response to Comment 7, we expect the model's estimate of catch and effort to be more accurate now because the bioeconomic model now incorporates data from 2015, when cod possession was prohibited. The 12-fish bag limit, with a 17-inch (43.2-cm) minimum size, and closed seasons March 1–April 14 and September 17–October 31 have a 50-percent chance of achieving, but not exceeding, the catch limit. This is an appropriate balance of risk for a healthy stock with a growing population. Setting measures we expect will exceed the catch limit solely because we expect the overage will not cause overfishing is inconsistent with the requirements of the Magnuson-Steven Fishery Conservation and Management Act.

Comment 7: Six commenters generally supported maintaining status quo measures.

Response: We disagree that the status quo recreational measures should be retained for 2017. A peer-reviewed bioeconomic model, developed by the Northeast Fisheries Science Center, was used to estimate 2017 recreational GOM cod and haddock mortality under various combinations of minimum sizes, possession limits, and closed seasons. Even when incorporating zero possession of GOM cod, the model estimates that the status quo measures for GOM haddock are not expected to constrain the catch of haddock, or the bycatch of cod, to the 2017 catch limits. The Council's more conservative measures are necessary to prevent exceeding the 2017 catch limits.

Comment 8: Thirty-three commenters supported the fall haddock closure as proposed by the NEFMC (September 17 through October 31). MA DMF specifically commented on the potential significant economic impact of a Labor Day closure, and cited this as one reason they supported the NEFMC proposed option. Thirty commenters discussed the benefits of keeping the fishery open in early September relative to allowing recreational anglers a final opportunity to fish before many typically haul out their vessels, and end their season.

Response: We agree. After further consideration of the alternatives, the fall closure recommended by the NEFMC better aligns with the objectives of this action. We have approved the haddock measures recommended by the NEFMC. As further discussed in the proposed rule, the supplemental EA, and the preamble to this rule, the measures being implemented for the 2017 fishing year are expected to meet, but not exceed the catch limits, and provide a better balance between our conservation objectives and the anticipated negative short-term economic impacts of the proposed alternatives.

Comment 9: One commenter supported the 4-week September closure for haddock that we presented for comments as an alternative in the proposed rule. Another commenter supported a 4-week September closure starting the Monday after Labor Day, and one commenter opposed a fall closure for haddock in general.

Response: We disagree and are implementing the 6-week closure proposed by the NEFMC, as discussed in the preamble and response to Comment 11. Selection of the timing and length of the closure was based on the outputs of the model and the consideration of other factors in order to ensure the recreational fishery achieves, but does not exceed, the recreational fishery sub-ACLs. A fall closure was determined to be a necessary measure to ensure that not only the GOM haddock, but GOM cod sub-ACLs are not exceeded.

Comment 10: Thirty-seven commenters supported the 12-fish haddock bag limit.

Response: We agree and have approved the 12-fish haddock bag limit recommended by the NEFMC. As further discussed in the proposed rule, preamble, and the supplemental EA, and the preamble to this rule, the measures being implemented for the 2017 fishing year are expected to meet, but not exceed the catch limits.

Comment 11: Three commenters support a lower bag limit for haddock than was proposed.

Response: We disagree that a lower bag limit is needed. The 12-fish bag limit for haddock, in conjunction with the other measures, is intended to balance the need to constrain catch within the ACL, with social and economic considerations. Further reduction of the haddock bag limit is not biologically necessary and would likely unnecessarily increase negative economic effects to the recreational fishery.

Comment 12: One commenter suggested that we reduce the haddock minimum size to 16 inches (40.64 cm) to reduce discards.

Response: We disagree. Potential changes to minimum sizes and the impact on the catch and fishery are incorporated into the bioeconomic model. We are maintaining the current minimum size (17 inches; 43.2 cm) for GOM haddock in this action.

Cod Measures

Comment 13: Seven commenters wanted the recreational cod fishery to be reopened. Two commenters wanted to maintain the status quo cod season. Several commenters referenced their personal fishing experience and stated that they encountered more cod in 2016 than they had in the past.

Response: We disagree that the recreational fishery for cod should be open in 2017. This action prohibits the retention of GOM cod by recreational anglers year-round. GOM cod is overfished, and overfishing is occurring. In fishing year 2016, the recreational cod ACL was exceeded by 92 percent, and the recreational cod quota remains the same in 2017 as it was in 2016. More restrictive measures on recreational cod, and haddock, fishing are required to ensure that the recreational cod quota is not exceeded again. We understand that there are short-term negative economic effects associated with the prohibition on recreational cod fishing. We are hopeful that the continued efforts to rebuild the GOM cod stock will result in increased opportunities for recreational fishermen in the future.

Comment 14: Two comments discussed alternative management measures for cod that were not in the proposed rule: A 2- to 4-week cod season for one 26-inch (66.0-cm) or greater cod, or the use of a slot limit for cod (24–29 inches; 61.0–73.7 cm).

Response: We disagree that these options would have been viable alternatives for the 2017 fishing year. Even when zero possession of cod was analyzed, the recreational cod catch limit was projected to be exceeded without additional measures limiting the catch of haddock to further reduce the projected cod catch. Limited seasons and slot limits could be appropriate for consideration in future actions.

Comment 15: Thirty-six commenters supported the prohibition of cod.

Response: We agree. We have implemented the prohibition on recreational GOM cod catch as one measure to constrain 2017 recreational cod catch to the sub-ACL. GOM cod are overfished and overfishing is occurring so the recreational sub-ACL has been set at an extremely low level of 157 mt. This decision has been explained further in the preamble.

Comment 16: Two commenters cited concerns about the impact of the recreational fishery on spawning cod.

Response: This action did not consider measures to protect spawning cod, and as a result, these comments are irrelevant to, and outside the scope of, the measures approved in this final rule. However, to provide some background, the Northeast Multispecies FMP includes measures to protect spawning cod during times when aggregations are known to occur consistently. Some of these closures apply to the recreational fishery, while others only apply to commercial groundfish vessels. In the future, the NEFMC could consider changes to these closures, including the fisheries that are exempt from the closures, as well as additional spawning protections.

General Comments

Comment 17: Thirty-four commenters supported adoption of the measures proposed by the NEFMC.

Response: We agree, and are implementing the measures proposed by the NEFMC because these measures balance regional differences and impacts on anglers and the for-hire fleet. Additionally, the NEFMC measures provide a sufficient probability of achieving, but not exceeding, the GOM cod and haddock 2017 catch limits.

Comment 18: The NEFMC commented that although the NMFS option is estimated to have only $100,000 less economic benefit than the NEFMC option, it is not clear if the model can accurately estimate the economic impact of a Labor Day weekend closure because it is less than a whole MRIP wave.

Response: We agree that the bioeconomic model estimates for a timeframe of less than 1 month may be less precise than estimates produced for a complete wave. We are not implementing the additional NMFS option for a 4-week closure in September.

Comment 19: Seven individuals commented that the commercial fishery should be shut down, or kept 50 miles from shore, to allow increased harvesting opportunities for recreational fishermen. One commenter asserted that the recreational fishery cannot catch as much as one commercial haul.

Response: The Northeast Multispecies FMP allocates separate sub-ACLs for GOM cod and haddock to both the commercial and recreational components of the fishery. Each component allocated a sub-ACL is also subject to specific AMs if it exceeds that sub-ACL. These measures are intended to ensure that each fishery is able to access the resource and be accountable for any overages, and is intended to prevent one component of the fishery from negatively affecting another component. The recreational fishery is allocated 33 percent of the total GOM cod ACL and 27 percent of the GOM haddock ACL, and in 2016 caught more than its allocation for both stocks. In recent years, recreational catch has, at times, exceeded commercial catch, and can be a substantial portion of overall GOM cod and haddock catch. Additionally, the status quo measures are not expected to constrain recreational catch to its sub-ACLs in 2017, and as a result, the final measures implemented in this action are necessary to ensure that the recreational sub-ACLs are not exceeded.

Comment 20: Two commenters supported separate measures for private vessels and for-hire vessels.

Response: During development of 2017 measures, the Council's RAP and Groundfish Oversight Committee considered separate measures for private vessels and the for-hire fleet. As discussed in the proposed rule, the NEFMC declined the Groundfish Committee's recommendation to implement separate measures for these fleets at this time in deference to having a larger public process to consider the concept. Separate measures for these fleets may be considered in a future action.

Comment 21: One individual commented that haddock 17 inches (43.2 cm) and larger were rare and questioned why anglers do not see these small haddock turn into high numbers of larger fish the next year.

Response: In recent years, there have been multiple large year classes of haddock. These large year classes can make larger haddock appear less common by comparison; the proportion of young fish to old fish is high in the current population. The growth rate of haddock has varied over time and may be related to population size. Prior to declines of the haddock population in the mid-twentieth century, haddock

grew slower than was observed when the population was smaller in the later twentieth century. In recent years, with the large populations of haddock and as a result, slower growth rates in haddock.

The average weight of haddock caught by recreational anglers in 2016 (1.7 lb; 0.8 kg) was the same as the average weight in 2015, while the average number of haddock caught per angler trip nearly doubled (from 5.5 to 14) between 2015 and 2016. This information does not demonstrate a strong benefit to further reduce the minimum size for haddock at this time.

Comment 22: The Stellwagen Bank Charter Boat Association and 31 individuals commented that the MRIP data are incorrect and suggested we should not use catch and effort estimates to manage the recreational fishery. In particular, estimates of the number of angler trips was a concern raised in these comments.

Response: Estimates of catch and effort must be used because it is not possible to have a complete census of all recreational anglers to capture all catch and every angler trip. MRIP is the method used to count and report marine recreational catch and effort. In January 2017, the National Academies of Science released their latest review of MRIP and recognized NMFS for making ''impressive progress'' and ''major improvements'' to MRIP survey designs since the 2006 review of MRIP. While there are some remaining challenges to MRIP surveys, we continue to make improvements including transitioning from the Coastal Household Telephone survey to the Fishing Effort Survey, which will further improve our estimates of recreational fishing effort.

Classification

The Administrator, Greater Atlantic Region, NMFS, determined that these measures are necessary for the conservation and management of the Northeast multispecies fishery and that the measures are consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

Administrative Procedure Act

Pursuant to 5 U.S.C. 553(d)(3), the Assistant Administrator for Fisheries finds good cause to make this rule effective immediately upon filing with the Office of the Federal Register. This final rule implements reductions from the recreational management measures implemented for fishing year 2016, and that currently remain in place. In fishing year 2016, the GOM cod recreational sub-ACL was exceeded by 92 percent and recreational sub-ACL is unchanged for 2017. GOM cod are overfished and overfishing is occurring, and it is critical that the 2017 recreational management measures, which prohibit the retention of cod, go into effect before the season opens to ensure that the catch limit is not exceeded again. Fishing effort and catch are both strong in summer months. Further delay of the implementation of these measures increases the likelihood of quota overages that could require implementation of even more restrictive measures in a future action. If this rule is not effective on, or before, August 1, then the GOM recreational cod season will open and anglers will be able to retain these fish. A targeted fishery would result in an increase in cod catch not only due to retention of cod, but due to discards of cod which are higher during an open season than when anglers are intentionally avoiding cod altogether to focus on other species. Thus, delaying implementation of these measures would be contrary to the public interest of ensuring that GOM cod catch limits are not exceeded.

The Northeast Multispecies fishing year begins on May 1 of each year and continues through April 30 of the following calendar year. The collection and processing of recreational data creates a very compressed period for consideration of options, the public NEFMC process, and the rulemaking process prescribed by the Administrative Procedure Act. We consulted with the NEFMC in January 2017. On January 25, 2017, the NEFMC voted to recommend to us the suite of recreational measures we are implementing. In addition to this collaborative consultation process prescribed for the proactive AM, we must fully evaluate and analyze the measures under consideration. This involves not only the bioeconomic model output presented in January, but also includes an environmental analysis consistent with the NEPA requirements, and a systematic review of compliance with other applicable laws. In order to evaluate the impact of the 2016 recreational catch overages, and the proposed management alternatives, we needed to consider them in the context of total catch and catch limits. Final data on commercial catch of GOM cod and haddock, and the portion of the catch limit that was utilized, was not available until July 5, 2017.

For the reasons outlined, NMFS finds that there is good cause to waive the otherwise applicable requirement to provide a 30-day delay in implementation.

Executive Order (E.O.) 12866

This final rule has been determined to be not significant for purposes of E.O. 12866.

Regulatory Flexibility Act (RFA)

A final regulatory flexibility analysis (FRFA) was prepared for this action. The FRFA incorporates the IRFA, a summary of the significant issues raised by the public comments in response to the IRFA and NMFS responses to those comments, and a summary of the analyses completed to support the action. The FRFA includes sections of the preamble (**SUPPLEMENTARY INFORMATION**) and analyses supporting this rulemaking, including the Framework Adjustment 55 EA, the supplemental EA to Framework Adjustment 55, and the supplemental information report. A description of the action, why it is being considered, and the legal basis for this action are contained in the supplemental information report and preamble to the proposed rule, and are not repeated here (see **ADDRESSES**). A summary of the analyses follows.

A Summary of the Significant Issues Raised by the Public in Response to the IRFA, a Summary of the Agency's Assessment of Such Issues, and a Statement of Any Changes Made in the Final Rule as a Result of Such Comments

Our responses to all of the comments received on the proposed rule, including those that raised significant issues with the proposed action, or commented on the economic analyses summarized in the IRFA, can be found in the Comments and Responses section of this rule. In the proposed rule we solicited comments on two options. The majority of comments supported implementing the measures that the NEFMC recommended, including the fall haddock closure from September 17 through October 31. Most of these comments expressed disappointment that the recommended measures were not implemented in time for the May 1 start to the fishing year and raised concerns that the delay would cause further overages and result in additional restrictions on the recreational fishery in 2018. There was one comment on the IRFA. The NEFMC pointed out that the bioeconomic model cannot estimate recreational effort at a time scale of less than a month. Given this restriction it is not clear that the model can accurately capture the impacts of a closure that discourages recreational fishing during the Labor Day weekend, the last 3-day weekend of the summer and an

important component of the for-hire fleet's business. This comment, among other information as discussed in the preamble, supports our decision to implement the NEFMC's proposed option.

Description and Estimate of the Number of Small Entities to Which This Rule Would Apply

The Small Business Administration (SBA) defines a small commercial finfishing or shellfishing business as a firm with annual receipts (gross revenue) of up to $11.0 million. A small for-hire recreational fishing business is defined as a firm with receipts of up to $7.5 million. Having different size standards for different types of fishing activities creates difficulties in categorizing businesses that participate in multiple fishing related activities. For purposes of this assessment business entities have been classified into the SBA-defined categories based on which activity produced the highest percentage of average annual gross revenues from 2013–2015, the most recent 3-year period for which data are available. This classification is now possible because vessel ownership data have been added to Northeast permit database. The ownership data identify all individuals who own fishing vessels. Using this information, vessels can be grouped together according to common owners. The resulting groupings were treated as a fishing business for purposes of this analysis. Revenues summed across all vessels in a group and the activities that generate those revenues form the basis for determining whether the entity is a large or small business.

This rule includes closed seasons in addition to possession limits and size limits. For purposes of this analysis, it is assumed that for-hire businesses are directly affected by all three types of recreational fishing restrictions. According to the FMP, it is unlawful for the owner or operator of a charter or party boat issued a valid multispecies permit, when the boat is carrying passengers for hire, to:

- Possess cod or haddock in excess of the possession limits;
- Fish with gear in violation of the regulations; and/or
- Fail to comply with the applicable restrictions if transiting the GOM Regulated Mesh Area with cod or haddock on board that was caught outside the GOM Regulated Mesh Area.

As the for-hire owner and operator can be prosecuted under the law for violations of the proposed regulations, for-hire business entities are considered directly affected in this analysis. Anglers are not considered ''entities'' under the RFA and thus economic impacts on anglers are not discussed here.

For-hire fishing businesses are required to obtain a Federal charter/party multispecies fishing permit in order to carry passengers to catch GOM cod or haddock. Thus, the affected businesses entities of concern are businesses that hold Federal multispecies for-hire fishing permits. While all business entities that hold for-hire permits could be affected by changes in recreational fishing restrictions, not all business that hold for-hire permits actively participate in a given year. Those who actively participate, *i.e.,* land fish, would be the group of business entities that are impacted by the regulations. Latent fishing power (in the form of unfished permits) has the potential to alter the impacts on a fishery, but it's not possible to predict how many of these latent business entities will or will not participate in this fishery in fishing year 2017. The Northeast Federal landings database (*i.e.,* vessel trip report data) indicates that a total of 645 party/charter vessels held a multispecies for-hire fishing permit in 2015 (the most recent full year of available data). Of the 645 for-hire permitted vessels, however, only 208 actively participated in the for-hire Atlantic cod and haddock fishery in fishing year 2015 (*i.e.,* reported catch of cod or haddock).

Using vessel ownership information developed from Northeast Federal permit data and Northeast vessel trip report data, it was determined that the 208 actively participating for-hire vessels are owned by 191 unique fishing business entities. The vast majority of the 208 fishing businesses were solely engaged in for-hire fishing, but some also earned revenue from shellfish and/or finfish fishing. The highest percentage of annual gross revenues for all but 18 of the fishing businesses was from for-hire fishing. In other words, the revenue from for-hire fishing was greater than the revenue from shellfishing and the revenue from finfish fishing for all but 18 of the business entities.

According to the SBA size standards, small for-hire businesses are defined as firms with annual receipts of up to $7.5 million, and small commercial finfishing or shellfishing business as firms with annual receipts (gross revenue) of up to $11.0 million. Average annual gross revenue estimates calculated from the most recent three years (2013–2015) indicate that none of the 191 for-hire business entities had annual receipts of more than $5.2 million from all of their fishing activities (for-hire, shellfish, and finfish). Therefore, all of the affected for-hire business entities are considered ''small'' by the SBA size standards and thus this action will not disproportionately affect small versus large for-hire business entities.

Description of the Projected Reporting, Record-Keeping, and Other Compliance Requirements of This Rule

There are no reporting, recordkeeping, or other compliance requirements.

Federal Rules Which May Duplicate, Overlap, or Conflict With This Rule

The action is authorized by the regulations implementing the Northeast Multispecies FMP. It does not duplicate, overlap, or conflict with other Federal rules.

Description of Significant Alternatives to the Rule Which Accomplish the Stated Objectives of Applicable Statutes and Which Minimize Any Significant Economic Impact on Small Entities

A total of seven combinations of recreational measures were presented to the Recreational Advisory Panel, the Groundfish Oversight Committee, and the NEFMC. This included the status quo and an option (presented as Option 1) that prohibited cod possession while retaining the current haddock measures that would not have restrained catch to the quotas, and thus, would not have accomplished the objective. The proposed options that would accomplish the objectives were the NEFMC recommended option (presented as Option 2) and the additional NMFS option (presented as Option 3), which are discussed in detail in the preamble of the proposed rule. The remaining three options (Options 4, 5, and 6 in Table 3) that would accomplish the objective were discussed by all three groups. These remaining options were rejected either because implementation was viewed as confusing to the public (*e.g.,* implementing a May closure shortly after the start of the fishing year on May 1) or in deference to having a larger public process to consider the concept (*i.e.,* separate measures for the private anglers and the for-hire fleet).

TABLE 3—PROJECTED FISHING YEAR 2017 RECREATIONAL COD AND HADDOCK CATCH UNDER ALTERNATIVE MEASURES NOT PROPOSED

Possible 2017 measures	Haddock			Cod			Predicted haddock catch (mt)	Probability haddock catch below sub-ACL (percent)	Predicted cod catch (mt)	Probability cod catch below sub-ACL (percent)
	Haddock possession limit	Minimum fish size	Closed season	Cod possession limit	Minimum fish size	Closed season				
Option 4	15	17	3/1–4/14—2 weeks in May.	N/A	N/A	5/1–4/30	1,118	73	153	61
Option 5	10	17	3/1–4/14—1 week in May	N/A	N/A	5/1–4/30	1,149	68	157	51
Option 6 Private	12	17	3/1–4/14, 9/17–10/31	N/A	N/A	5/1–4/30	1,159	51	153	55
Option 6 For Hire	10	17	3/1–4/14	N/A	N/A	5/1–4/30				

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a letter to permit holders that also serves as small entity compliance guide (the guide) was prepared. Copies of this final rule are available from the Greater Atlantic Regional Fisheries Office (see **ADDRESSES**), and the guide, *i.e.,* bulletin, will be sent to all holders of permits for the Northeast multispecies fishery. The guide and this final rule will be available upon request.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: July 25, 2017.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 648 as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.89:

■ a. Revise paragraphs (b)(2) and (c)(1);

■ b. Remove paragraph (c)(2);

■ c. Redesignate paragraphs (c)(3) through (8) as paragraphs (c)(2) through (7), respectively;

■ d. Revise newly redesignated paragraph (c)(7); and

■ e. Revise paragraphs (e) and (f).

The revisions and additions read as follows:

§ 648.89 Recreational and charter/party vessel restrictions.

* * * * *

(b) * * *

(2) *Exceptions*—(i) *Fillet size.* Vessels may possess fillets less than the minimum size specified, if the fillets are taken from legal-sized fish and are not offered or intended for sale, trade or barter.

(ii) *Transiting.* Vessels in possession of cod or haddock caught outside the GOM Regulated Mesh Area specified in § 648.80(a)(1) may transit this area with cod and haddock that meet the minimum size specified for fish caught outside the GOM Regulated Mesh Area specified in § 648.80(b)(1), provided all bait and hooks are removed from fishing rods, and any cod and haddock on board has been gutted and stored.

* * * * *

(c) *Possession Restrictions*—(1) *Cod*—(i) *Outside the Gulf of Maine*—(A) *Private recreational vessels.* Each person on a private recreational vessel may possess no more than 10 cod per day in, or harvested from, the EEZ when fishing outside of the GOM Regulated Mesh Area specified in § 648.80(a)(1).

(B) *Charter or party boats.* Each person on a charter or party fishing boat permitted under this part, and not fishing under the NE multispecies DAS program or on a sector trip, may possess unlimited cod in, or harvested from, the EEZ when fishing outside of the GOM Regulated Mesh Area specified in § 648.80(a)(1).

(ii) *Gulf of Maine*—(A) *Private recreational vessels.* When fishing in the GOM Regulated Mesh Area specified in § 648.80(a)(1), persons aboard private recreational fishing vessels may not fish for or possess cod, except that each person on a private recreational vessel in possession of cod caught outside the GOM Regulated Mesh Area may transit the GOM Regulated Mesh Area with cod up to the possession limit specified at § 648.80(c)(1)(i)(A), provided all bait and hooks are removed from fishing rods and any cod on board has been gutted and stored.

(B) *Charter or party boats.* When fishing in the GOM Regulated Mesh Area specified in § 648.80(a)(1), persons aboard a charter or party fishing boat may not fish for or possess cod, except that each person on a charter or party fishing boat permitted under this part, and not fishing under the NE multispecies DAS program or on a sector trip, in possession of cod caught outside the GOM Regulated Mesh Area specified in § 648.80(a)(1) may transit the GOM Regulated Mesh Area in possession of cod caught outside the GOM Regulated Mesh Area with cod up to the possession limit specified at § 648.80(c)(1)(i)(B), provided all bait and hooks are removed from fishing rods and any cod on board has been gutted and stored.

(iii) *Fillet conversion.* For purposes of counting fish, fillets will be converted to whole fish at the place of landing by dividing the number of fillets by two. If fish are filleted into a single (butterfly) fillet, such fillet shall be deemed to be from one whole fish.

(iv) *Application of possession limit.* Cod harvested by recreational fishing vessels in or from the EEZ with more than one person aboard may be pooled in one or more containers. Compliance with the possession limit will be determined by dividing the number of fish on board by the number of persons on board. If there is a violation of the possession limit on board a vessel carrying more than one person, the violation shall be deemed to have been committed by the owner or operator of the vessel.

(v) *Storage.* Cod must be stored so as to be readily available for inspection.

* * * * *

(7) *Haddock*—(i) *Outside the Gulf of Maine*—(A) *Private recreational vessels.* Each person on a private recreational vessel may possess unlimited haddock in, or harvested from, the EEZ when

fishing outside of the GOM Regulated Mesh Area specified in § 648.80(a)(1).

(B) *Charter or party boats.* Each person on a charter or party fishing boat permitted under this part, and not fishing under the NE multispecies DAS program or on a sector trip, may possess unlimited haddock in, or harvested from, the EEZ when fishing outside of the GOM Regulated Mesh Area specified in § 648.80(a)(1).

(ii) *Gulf of Maine*—(A) *Private recreational vessels.* Each person on a private recreational vessel in possession of haddock caught outside the GOM Regulated Mesh Area specified in § 648.80(a)(1) may transit the GOM Regulated Mesh Area with more than the GOM haddock possession limit specified at paragraph (c)(7)(ii) of this section up to the possession limit specified at paragraph (c)(7)(i) of this section, provided all bait and hooks are removed from fishing rods and any haddock on board has been gutted and stored.

(1) May 1 through September 17. Each person on a private recreational fishing vessel, fishing from May 1 through September 17, may possess no more than 12 haddock per day in, or harvested from, the EEZ when fishing in the GOM Regulated Mesh Area specified in § 648.80(a)(1).

(2) September 18 through October 31. When fishing in the GOM Regulated Mesh Area specified in § 648.80(a)(1), persons aboard private recreational fishing vessels may not fish for or possess any haddock from September 18 through October 31.

(3) November through February. Each person on a private recreational fishing vessel, fishing from November 1 through February 28 (February 29 in leap years), may possess no more than 12 haddock per day in, or harvested from, the EEZ when fishing in the GOM Regulated Mesh Area specified in § 648.80(a)(1).

(4) March 1 through April 14. When fishing in the GOM Regulated Mesh Area specified in § 648.80(a)(1), persons aboard private recreational fishing vessels may not fish for or possess any haddock from March 1 through April 14.

(5) April 15 through April 30. Each person on a private recreational fishing vessel, fishing from April 15 through April 30, may possess no more than 12 haddock per day in, or harvested from, the EEZ when fishing in the GOM Regulated Mesh Area specified in § 648.80(a)(1).

(B) *Charter or party boats.* Each person on a charter or party fishing boat permitted under this part, and not fishing under the NE multispecies DAS program or on a sector trip, in possession of haddock caught outside the GOM Regulated Mesh Area specified in § 648.80(a)(1) may transit the GOM Regulated Mesh Area with more than the GOM haddock possession limit specified at paragraph (c)(7)(ii) of this section up to the possession limit specified at paragraph (c)(7)(i) of this section, provided all bait and hooks are removed from fishing rods and any haddock on board has been gutted and stored.

(1) May 1 through September 17. Each person on a charter or party fishing boat permitted under this part, and not fishing under the NE multispecies DAS program or on a sector trip, fishing from May 1 through September 17, may possess no more than 12 haddock per day in, or harvested from, the EEZ when fishing in the GOM Regulated Mesh Area specified in § 648.80(a)(1).

(2) September 18 through October 31. When fishing in the GOM Regulated Mesh Area specified in § 648.80(a)(1), persons on a charter or party fishing boat permitted under this part, and not fishing under the NE multispecies DAS program or on a sector trip, may not fish for or possess any haddock from September 18 through October 31.

(3) November through February. Each person on a charter or party fishing boat permitted under this part, and not fishing under the NE multispecies DAS program or on a sector trip, fishing from November 1 through February 28 (February 29 in leap years), may possess no more than 12 haddock per day in, or harvested from, the EEZ when fishing in the GOM Regulated Mesh Area specified in § 648.80(a)(1).

(4) March 1 through April 14. When fishing in the GOM Regulated Mesh Area specified in § 648.80(a)(1), persons aboard a charter or party fishing boat permitted under this part, and not fishing under the NE multispecies DAS program or on a sector trip, may not fish for or possess any haddock from March 1 through April 14.

(5) April 15 through April 30. Each person on a charter or party fishing boat permitted under this part, and not fishing under the NE multispecies DAS program or on a sector trip, fishing from April 15 through April 30, may possess no more than 12 haddock per day in, or harvested from, the EEZ when fishing in the GOM Regulated Mesh Area specified in § 648.80(a)(1).

(iii) *Fillet conversion.* For purposes of counting fish, fillets will be converted to whole fish at the place of landing by dividing the number of fillets by two. If fish are filleted into a single (butterfly) fillet, such fillet shall be deemed to be from one whole fish.

(iv) *Application of possession limit.* Haddock harvested in or from the EEZ by private recreational fishing boats or charter or party boats with more than one person aboard may be pooled in one or more containers. Compliance with the possession limit will be determined by dividing the number of fish on board by the number of persons on board. If there is a violation of the possession limit on board a vessel carrying more than one person, the violation shall be deemed to have been committed by the owner or operator of the vessel.

(v) *Storage.* Haddock must be stored so as to be readily available for inspection.

* * * * *

(e) *Charter/party vessel restrictions on fishing in GOM closed areas and the Nantucket Lightship Closed Area*—(1) *GOM closed areas.* (i) A vessel fishing under charter/party regulations may not fish in the GOM closed areas specified in § 648.81(d)(1), (e)(1), and (f)(4) during the time periods specified in those paragraphs, unless the vessel has on board a valid letter of authorization issued by the Regional Administrator pursuant to § 648.81(f)(5)(v) and paragraph (e)(3) of this section. If the vessel fishes or intends to fish in the GOM cod protection closures, the conditions and restrictions of the letter of authorization must be complied with for a minimum of 3 months. If the vessel fishes or intends to fish in the year-round GOM closure areas, the conditions and restrictions of the letter of authorization must be complied with for the rest of the fishing year, beginning with the start of the participation period of the letter of authorization.

(ii) A vessel fishing under charter/party regulations may not fish in the GOM Cod Spawning Protection Area specified at § 648.81(n)(1) during the time period specified in that paragraph, unless the vessel complies with the requirements specified at § 648.81(n)(2)(iii).

(2) *Nantucket Lightship Closed Area.* A vessel fishing under charter/party regulations may not fish in the Nantucket Lightship Closed Area specified in § 648.81(c)(1) unless the vessel has on board a letter of authorization issued by the Regional Administrator pursuant to § 648.81(c)(2)(iii) and paragraph (e)(3) of this section.

(3) *Letters of authorization.* To obtain either of the letters of authorization specified in paragraphs (e)(1) and (2) of this section, a vessel owner must request a letter from the NMFS Greater Atlantic Regional Fisheries Office, either in writing or by phone (see Table

1 to 50 CFR 600.502). As a condition of these letters of authorization, the vessel owner must agree to the following:

(i) The letter of authorization must be carried on board the vessel during the period of participation;

(ii) Fish species managed by the NEFMC or MAFMC that are harvested or possessed by the vessel, are not sold or intended for trade, barter or sale, regardless of where the fish are caught;

(iii) The vessel has no gear other than rod and reel or handline gear on board; and

(iv) For the GOM charter/party closed area exemption only, the vessel may not fish on a sector trip, under a NE multispecies DAS, or under the provisions of the NE multispecies Small Vessel Category or Handgear A or Handgear B permit categories, as specified at § 648.82, during the period of participation.

(f) *Recreational fishery AM*—(1) *Catch evaluation.* As soon as recreational catch data are available for the entire previous fishing year, the Regional Administrator will evaluate whether recreational catches exceed any of the sub-ACLs specified for the recreational fishery pursuant to § 648.90(a)(4). When evaluating recreational catch, the components of recreational catch that are used shall be the same as those used in the most recent assessment for that particular stock. To determine if any sub-ACL specified for the recreational fishery was exceeded, the Regional Administrator shall compare the 3-year average of recreational catch to the 3-year average of the recreational sub-ACL for each stock.

(2) *Reactive AM adjustment.* If it is determined that any recreational sub-ACL was exceeded, as specified in paragraph (f)(1) of this section, the Regional Administrator, after consultation with the NEFMC, shall develop measures necessary to prevent the recreational fishery from exceeding the appropriate sub-ACL in future years. Appropriate AMs for the recreational fishery, including adjustments to fishing season, minimum fish size, or possession limits, may be implemented in a manner consistent with the Administrative Procedure Act, with final measures published in the **Federal Register** no later than January when possible. Separate AMs shall be developed for the private and charter/party components of the recreational fishery.

(3) *Proactive AM adjustment.* When necessary, the Regional Administrator, after consultation with the NEFMC, may adjust recreational measures to ensure the recreational fishery achieves, but does not exceed any recreational fishery sub-ACL in a future fishing year. Appropriate AMs for the recreational fishery, including adjustments to fishing season, minimum fish size, or possession limits, may be implemented in a manner consistent with the Administrative Procedure Act, with final measures published in the **Federal Register** prior to the start of the fishing year where possible. In specifying these AMs, the Regional Administrator shall take into account the non-binding prioritization of possible measures recommended by the NEFMC: For cod, first increases to minimum fish sizes, then adjustments to seasons, followed by changes to bag limits; and for haddock, first increases to minimum size limits, then changes to bag limits, and then adjustments to seasons.

[FR Doc. 2017–16018 Filed 7–27–17; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 82, No. 145
Monday, July 31, 2017

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

10 CFR Part 431

[EERE–2017–BT–TP–0047]

Energy Conservation Program: Test Procedure for Small Electric Motors and Electric Motors

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Request for information (RFI).

SUMMARY: The U.S. Department of Energy (DOE) is initiating a data collection process through this request for information to consider whether to amend DOE's test procedure for small electric motors, and whether new test procedures are needed for motors beyond those subject to the existing Federal test procedures. To inform interested parties and to facilitate this process, DOE has gathered data, identifying several issues associated with the currently applicable test procedure on which DOE is interested in receiving comment. The issues outlined in this document mainly concern applicability of the test procedure to additional motor categories (by topology, horsepower, non-standard construction, *etc.*), definitions, industry test methods, additional test procedure clarifications, and any additional topics that may inform DOE's decisions in a future test procedure rulemaking, including methods to reduce regulatory burden while ensuring the procedure's accuracy. DOE welcomes written comments from the public on any subject within the scope of this document (including topics not raised in this RFI).

DATES: Written comments and information are requested and will be accepted on or before August 30, 2017.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2017–BT–TP–0047, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: SmallElectricMotors2017TP0047@ee.doe.gov.* Include docket number EERE–2017–BT–STD–0047 in the subject line of the message.
- *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.
- *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW., 6th Floor, Washington, DC 20024. Telephone: (202) 586–6636. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimilies (faxes) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section III of this document.

Docket: The docket for this activity, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *http://www.regulations.gov.* All documents in the docket are listed in the *http://www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket Web page can be found at *http://www.regulations.gov/#!docketDetail;D= EERE–2017-BT-TP-0047.* The docket Web page will contain simple instructions on how to access all documents, including public comments, in the docket. See section III for information on how to submit comments through *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Dommu, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–5B 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–9870. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Mary Greene, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–1817. Email: *mary.greene@hq.doe.gov.*

For further information on how to submit a comment, review other public comments and the docket, contact the Appliance and Equipment Standards Program staff at (202) 586–6636 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

Electric motors are included in the list of ''covered equipment'' for which DOE is authorized to establish and amend energy conservation standards and test procedures. (42 U.S.C. 6311(1)(A)). Additionally, EPCA directed DOE, subject to a determination of feasibility and justification, to establish energy conservation standards and test procedure for small electric motors. (42 U.S.C. 6317(b)) DOE's test procedures for small electric motors are prescribed at subpart X of 10 CFR part 431. DOE's test procedures for electric motors are prescribed at appendix B to subpart B of part 431. The following sections discuss DOE's authority to establish and amend test procedures for small electric motors, as well as provide relevant background information regarding DOE's consideration of test procedures for this equipment.

A. Authority and Background

The Energy Policy and Conservation Act of 1975 (''EPCA'' or ''the Act''),[1] Public Law 94–163 (42 U.S.C. 6291–6317, as codified), among other things, authorizes DOE to regulate the energy efficiency of a number of consumer products and industrial equipment. Title III, Part C of EPCA, which for editorial purposes was re-designated as Part A–1 upon incorporation into the U.S. Code (42 U.S.C. 6311–6317), established the Energy Conservation Program for Certain Industrial Equipment, which sets forth a variety of provisions designed to improve energy efficiency. This equipment includes small electric motors and electric motors, the subject of this RFI. (42 U.S.C. 6317(b) and 42 U.S.C. 6311(1)(A))

Under EPCA, the energy conservation program consists essentially of four parts: (1) Testing, (2) labeling, (3) establishing Federal energy conservation standards, and (4) certification and enforcement procedures. Provisions of the Act include definitions (42 U.S.C. 6311), energy conservation standards (42 U.S.C. 6313), test procedures (42 U.S.C. 6314), labeling provisions (42 U.S.C. 6315), and the authority to require information and reports from manufacturers (42 U.S.C. 6316). EPCA includes specific authority to establish test procedures and standards for electric motors and small electric motors. (42 U.S.C. 6313(b), 42 U.S.C. 6314(a)(5) and 42 U.S.C. 6317(b))

Federal energy efficiency requirements for covered products established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (See 42 U.S.C. 6316(a) and (b); 42 U.S.C. 6297) DOE may, however, grant waivers of Federal preemption for particular State laws or regulations, in accordance with the procedures and other provisions of EPCA. (See 42 U.S.C. 6316(b)(2)(D))

The Federal testing requirements consist of test procedures that manufacturers of covered equipment must use as the basis for: (1) Certifying to DOE that their equipment complies with the applicable energy conservation standards adopted pursuant to EPCA (See 42 U.S.C. 6316(a); 42 U.S.C. 6295(s)), and (2) making representations about the efficiency of that equipment. (42 U.S.C. 6314(d)) Similarly, DOE must use these test procedures to determine whether the equipment complies with relevant standards promulgated under EPCA. (See 42 U.S.C. 6316(a); (42 U.S.C. 6295(s))

Under 42 U.S.C. 6314, EPCA sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered equipment. EPCA generally requires that any test procedures prescribed or amended under this section must be reasonably designed to produce test results which reflect energy efficiency, energy use, and estimated operating costs of a covered equipment during a representative average use cycle or period of use and requires that test procedures not be unduly burdensome to conduct. (See 42 U.S.C. 6314(a)(2))

In addition, if DOE determines that a test procedure amendment is warranted, it must publish proposed test procedures and offer the public an opportunity to present oral and written comments on them. (42 U.S.C. 6314(b))

EPCA also requires that, at least once every 7 years, DOE evaluate test procedures to determine whether amended test procedures would more accurately or fully comply with the requirements for the test procedures to not be unduly burdensome to conduct and be reasonably designed to produce test results that reflect energy efficiency, energy use, and estimated operating costs during a representative average use cycle. (See 42 U.S.C. 6314(a)(1)(A)) If amended test procedures are appropriate, DOE must publish a final rule to incorporate the amendments. If DOE determines that test procedure revisions are not appropriate, DOE must publish its determination not to amend the test procedures. DOE is publishing this RFI to collect data and information to inform a potential test procedure rulemaking to satisfy the 7-year review requirement specified in EPCA, which required that DOE publish, by July 07, 2016, either a final rule amending the test procedures for small electric motors, or a determination that amended test procedures are not required. (See 42 U.S.C. 6314(a)(1))

B. Rulemaking History

DOE's current test procedure for small electric motors is located at 10 CFR 431.444. DOE prescribed test procedures for small electric motors on July 7, 2009. 74 FR 32059.[2] The current test procedures incorporate the Institute of Electrical and Electronics Engineers (IEEE) Standard 114 and IEEE Standard 112 Test Methods A and B, and CSA C747–09 and CSA C390–10 as alternative test procedures. (See 10 CFR 431.444(b))

On June 24, 2016, DOE published a separate notice of proposed rulemaking regarding the certification, compliance, labeling, and enforcement of energy conservation standards for electric motors and small electric motors. 81 FR 41378 (June 2016 CCE NOPR). In the June 2016 CCE NOPR, DOE proposed to bring certification, compliance, and enforcement (CCE) regulations for electric motors and small electric motors under the general regulatory scheme of DOE's existing certification, compliance, and enforcement regulations for other covered products and equipment. *See* id. Additionally, the June 2016 CCE NOPR proposed specific sampling plans, certification of efficiency requirements, independent testing laboratory and certification program requirements, and labeling requirements for electric motors and small electric motors. *See* id.

II. Request for Information and Comments

In the following sections, DOE has identified a variety of issues on which it seeks input to aid in considering whether or not new or amended test procedures for small electric motors. Specifically, DOE is requesting comment on any opportunities to streamline and simplify testing requirements for small electric motors.

Additionally, DOE welcomes comments on other issues relevant to the conduct of this process that may not specifically be identified in this document. In particular, DOE notes that under Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' Executive Branch agencies such as DOE are directed to manage the costs associated with the imposition of expenditures required to comply with Federal regulations. See 82 FR 9339 (Feb. 3, 2017). Pursuant to that Executive Order, DOE encourages the public to provide input on measures DOE could take to lower the cost of its regulations applicable to small electric motors consistent with the requirements of EPCA. DOE also requests comment on the benefits and burdens of adopting any industry/voluntary consensus-based or other appropriate test procedure, without modification.

A. Equipment Categories Considered in This Request for Information

1. DOE is considering revising the test procedures for small electric motors and establishing new test procedures for electric motors beyond those currently subject to existing test procedures.

[1] All references to EPCA in this document refer to the statute as amended through the Energy Efficiency Improvement Act of 2015 (EEIA 2015), Public Law 114–11 (April 30, 2015).

[2] On May 4, 2012, DOE made clarifying edits and updates to the test procedures and provided procedures for DOE designation of nationally recognized certification programs. 77 FR 26608.

Sections II.A.1 and II.A.2 describe both of these categories. Small Electric Motors

DOE regulations define ''electric motor'' as a machine that converts electrical power into rotational mechanical power. 10 CFR 431.12. EPCA defines the term ''small electric motor'' as a NEMA general-purpose alternating current single-speed induction motor, built in a two-digit frame number series in accordance with National Electrical Manufacturers Association (NEMA) Standards Publication MG 1–1987 (MG 1 1987). (42 U.S.C. 6311(13)(G))

Subpart X of 10 CFR part 431 includes test procedures for the three topologies of small electric motors: Capacitor-start induction-run (CSIR), capacitor-start capacitor-run (CSCR), and certain polyphase motors. In any potential rulemaking, DOE will consider amendments to the test procedures for a ''small electric motor'' as defined at 10 CFR 431.442. Were DOE to determine that a motor did not meet the EPCA definition of ''small electric motor'' and, therefore, is not subject to test procedures in subpart X of 10 CFR part 431, DOE may determine that such a motor would still be considered for test procedures as an ''electric motor.'' [3]

2. Motors Categories Not Currently Subject to Test Procedures

DOE may consider setting test procedures for motors that are considered ''small'' by customers and the electric motor industry, but are not currently subject to the small electric motor test procedures. These motors may have similarities to motors that are currently regulated as small electric motors (such as horsepower) and may be used in similar applications. However despite these similarities, DOE is still determining whether these motors would be regulated as small electric motor or as electric motors under DOE regulations.

Regardless of the category under which they are regulated, if test procedures are adopted for these motors, DOE would define those categories (and exemptions) using technical and physical characteristics of those motors. DOE expects that this approach would describe the applicability of test procedures to particular motors without reference to statements of marketing or design intent.

In order to identify whether test procedures should be considered for additional motors, DOE is first reviewing which motors are and are not already subject to regulations. Motors of enclosed construction, non-continuous duty, and not meeting certain torque requirements are not addressed by the regulations in subpart B or subpart X of 10 CFR part 431. DOE may consider setting test procedures for some of these motors. Table II–2 lists the motor topologies that may be considered for test procedures.

Section 431.25 to subpart B of 10 CFR part 431 subjects certain 2-digit NEMA frame (56-frame) polyphase motors of enclosed construction and certain 3-digit polyphase motors to energy conservation standards. The electric motors regulated at 10 CFR 431.25 currently exclude two groups of motors: (1) Those with less than one horsepower and (2) polyphase motors of a 2-digit frame size (other than certain NEMA 56-frame size enclosed motors) with a horsepower greater than or equal to one. DOE may consider establishing test procedures for some of these motors with the intent is to primarily focus on motors considered small by customers and industry.

Only motors with a power rating of greater than or equal to 0.25 horsepower and less than or equal to 3 horsepower are subject to the regulations in subpart X to 10 CFR part 431. Should DOE consider a potential test procedure rulemaking, DOE does not expect at this time that it would propose revisions to the test procedures for polyphase enclosed motors greater than or equal to one horsepower in the NEMA 56-frame size because some of these motors are currently regulated in § 431.25 of subpart B to 10 CFR part 431.

If DOE determines to propose test procedures for categories of motors not currently subject to test procedures, DOE will reconsider a lower horsepower limit. Upon reviewing manufacturer catalogs, DOE found that the lowest horsepower with multiple manufacturers offering a wide range of motors was 0.125 hp. DOE will consider a minimum horsepower limit in any potential rulemaking.

Similarly, DOE would consider an upper horsepower limit in any rulemaking. The 3 hp upper limit for single-phase motors is based on a 2006 determination that DOE intends to review. 71 FR 38799 (July 10, 2006). DOE has since found that single-phase, 2-digit NEMA frame size motors that exceed 3 hp are available, along with single-phase motors inclusive of all frame sizes with up to 15 hp. DOE also found that polyphase 2-digit NEMA frame size motors, excluding those currently regulated at 10 CFR 431.25, exist up to 5 hp.

Based on the existing definitions discussed above, Table II–1 lists the motor categories, by horsepower and frame size, that may be considered for test procedures in any rulemaking. Frame size is not used as a limiting factor except in the case of polyphase motors for purposes of preventing overlap with the electric motors regulations listed at 10 CFR 431.25. The final list of motors subject to test procedures may be more limited than Table II–1 based on properties other than horsepower and frame size, as discussed later in this section.

TABLE II–1—MOTORS UNDER CONSIDERATION FOR A POTENTIAL TEST PROCEDURE RULEMAKING

Phase count	Horsepower	Frame size
Single	≥0.125 hp and ≤15 hp	All.
Polyphase	≥0.125 hp and ≤5 hp	2-digit.*
Polyphase	<1 hp	All.

* Polyphase enclosed motors ≥1 hp, of the 56-frame size are not under consideration for revised test procedures, as certain ones of these motors were included in a separate rulemaking, and are regulated at 10 CFR 431.25.

A variety of motor topologies exist within the range described in Table II–1, including topologies (*e.g.,* polyphase) that meet the regulatory definition of small electric motor and others (*e.g.,* shaded pole) that are not currently regulated as small electric motors or electric motors. DOE may use a subset of these motor topologies to describe the

[3] While the motors discussed in this RFI are likely covered as ''electric motors,'' DOE is authorized to determine whether ''other motors'' are to be included as covered equipment and subject to standards. (See 42 U.S.C. 6311(2)(B)(xiii); 42 U.S.C. 6312(b))

motors subject to test procedures in a potential final rule. Table II–2 lists various categories of motors that could potentially be considered for test procedures within the motor horsepower and frame sizes outlined in Table II–1. Certain subcategories of the motors listed in Table II–2 meet the definition of ''small electric motor'' and are subject to regulations at subpart X of 10 CFR part 431. Table II–3 presents a shorter list of categories of motors that DOE has preliminarily identified as representing potential interest because of their volume of shipments, ability to be tested using existing test procedures, and energy consumption.

Table II-2 Motor Categories Based on Motor Topology

AC	Single-Phase	Induction	Squirrel Cage	Capacitor	Permanent-Split Capacitor
					Capacitor-Start (CSCR, CSIR)*
					Two-value Capacitor
				Other	Split-phase
					Resistance-Start
					Shaded-Pole
					Line-Start Permanent Magnet
			Wound		Repulsion
					Repulsion-Start Induction
					Repulsion-Induction
		Synchronous			DC-Excited Synchronous
					Permanent Magnet Synchronous
					Reluctance Synchronous
					Hysteresis
	Polyphase	Induction	Squirrel Cage		Polyphase induction, squirrel cage**
					Line-Start Permanent Magnet
			Wound		Polyphase induction, wound
		Synchronous			DC-Excited Synchronous
					Permanent Magnet Synchronous
					Reluctance Synchronous
					Hysteresis
	Universal				Series-Wound
					Compensated Series-Wound
DC	Brushed				Permanent Magnet
					Wound-Stator
	Brushless				Permanent Magnet
					Switched Reluctance
					Electronically Commutated Motor

* This category includes motors already subject to small electric motors regulations. 10 CFR 431.446

** This category includes motors already subject to small electric motors regulations (10 CFR 431.446) and electric motors regulations (10 CFR 431.25).

TABLE II–3—PRIMARY MOTOR CATEGORIES BASED ON MOTOR TOPOLOGY

Permanent-Split Capacitor	Polyphase induction, squirrel cage.
Capacitor-Start	Reluctance Synchronous.
Shaded-Pole	Permanent Magnet.
Line-Start Permanent Magnet	Switched Reluctance.
Split-phase	Electronically Commutated Motor.
Permanent Magnet Synchronous	

Table II–4 lists various mechanical, electrical, and other design characteristics of motors such as the ability to operate submerged in a liquid (*i.e.,* submersible motors). DOE may rely on some of these design characteristics to describe the categories of motors that would be considered in a potential test procedure rulemaking.

TABLE II–4—MOTOR CATEGORIES BASED ON MOTOR CHARACTERISTICS

Horsepower.
Number of Speeds.

TABLE II–4—MOTOR CATEGORIES BASED ON MOTOR CHARACTERISTICS—Continued

Duty Rating (*e.g.,* continuous).
Enclosure Construction (*e.g.,* Air Over, TEFC, TENV).
AC input frequency (60 Hz/50 Hz).
Input waveform (AC or DC).
Frame Size.
Voltage.
Service Factor.
Flange and Endshields.
Shaft (*e.g.,* vertical shaft, special shaft).
Base (*e.g.,* non-standard base, mounting configuration).
Presence of moisture-resistant, sealed, or encapsulated windings.
Bearing construction.
Motor Component Assembly (Partial Motor).
Presence of a Brake (Brake Motor).
Presence of Gear Box (Gearmotors).
Presence of Controls (*e.g.,* variable-speed drives).
Close-coupled pump motors.
Submersible Motors.

The existing regulations for electric motors apply to a subset of electric motors characterized by nine design elements listed at 10 CFR 431.25(g), with the exceptions listed at 10 CFR 431.25(l). DOE could consider establishing a similar list of characteristics to delimit the categories of motors included in any potential small electric motor rulemakings, such as:

(1) Horsepower;

(2) Number of speeds (single, multiple, continuously variable);

(3) Motor topology;

(4) Duty rating;

(5) Enclosure construction;

(6) 60 hertz (Hz) sinusoidal power for alternating current (AC) motors;

(7) Input waveform (either AC or direct current (DC));

(8) Phase count (single-phase, polyphase);

(9) Frame size; and

(10) Other criteria presented in Table II–4.

Motors can have different speed capabilities, including single, multi, or (continuously) variable speeds. Variable and multi-speed motors can be tested with existing industry standards (see Table II–6) at a variety of operating points, but no single metric currently exists to quantify the performance of the variable or multi-speed motor. Variable or multi-speed capability provides the ability to save energy by more closely matching motor output to a varying load. DOE is considering whether to consider all speed capabilities in setting any potential new test procedures.

Motors can also have different topologies as listed in Table II–2. DOE has found test procedures that apply to all of these topologies for both induction and non-induction motors (see section II.C.1). Non-induction motors (such as permanent magnet motors) are often marketed as more efficient substitutes for induction motors, but currently have a lower market share. DOE is considering whether all motor topologies would be analyzed for potential new test procedures.

Motors can be described by their duty type, using either NEMA or IEC nomenclature. Duty type describes the operating profile the motor is designed to handle. For example, a continuous duty motor can operate for long periods of time at a steady load between required shut-down periods while intermittent-duty motors accumulate fewer annual operating hours Similar to the electric motors regulations described in subpart B of 10 CFR part 431, DOE is considering analyzing only continuous duty type motors for potential test procedures. DOE will consider whether any IEC duty types other than IEC duty type S1 correspond to a continuous duty type. For example, IEC duty types S9 and S10 can include an S1 reference rating, and may also be operated continuously.

Motors can be described by their enclosure construction—*i.e.* open and enclosed—and by many subcategories (*e.g.,* open drip proof, totally enclosed non-ventilated, and totally enclosed air-over). Enclosure construction tends to describe both the level of ingress protection (*i.e.,* protection from dust or splashing) and the cooling method (such as active air cooling via an integral fan or passive cooling via natural convection). Similar to the electric motors regulations described in subpart B of 10 CFR part 431, DOE is considering analyzing all enclosure constructions for potential new or revised test procedures.

An ''air-over'' motor is a unique variety of enclosure construction relating to a cooling method in which the motor is cooled by an airstream provided by a device or system separate from the motor. At the time of the December 2013 electric motors test procedure final rule, DOE lacked the necessary data to develop a test procedure for air-over motors. 78 FR 75973–75975 (December 13, 2013). As discussed in section II.C.1, DOE is investigating the potential to establish a test procedure for air-over motors.

A revised definition of air-over motor based on the physical features of a given motor may be needed to support potential test procedure. As part of the December 2013 electric motors test procedure final rule, DOE defined the term ''air-over electric motor'' as an electric motor rated to operate in and be cooled by the airstream of a fan or blower that is not supplied with the motor and whose primary purpose is providing airflow to an application other than the motor driving it. 78 FR 75973–75975. In other words, air-over electric motors do not have a factory-attached fan and require a separate means of forcing air over the frame of the motor. However, DOE notes that the absence of a fan is not a differentiating feature as some motors categories, such as totally-enclosed non-ventilated (TENV) motors, do not have internal fans or blowers. In terms of physical construction, DOE did not find any differences between air-over motors and non-air-over motors. For example, there is little difference between a totally-enclosed fan-cooled motor (TEFC) and a totally-enclosed air-over motor (TEAO). Based on these observations, DOE understands that what differentiates air-over motors from non-air-over motors is that they require the application of external cooling by a free flow of air to prevent overheating during continuous operation. In a TEAO, without the application of free flowing air, the internal motor winding temperatures would exceed the maximum permissible temperature. The risk of overheating can be verified by observing whether the motor's temperature rises during a rated load temperature test instead of stabilizing. During a rated load temperature test the motor is loaded at the rated full load using a dynamometer until it is thermally stable. The current industry standards incorporated by reference in the existing DOE small electric motors test procedure each contain a portion describing a rated load temperature test. Thermal stability is defined as the condition where the motor temperature does not change by more than 1 ° Cover 30 minutes or 15 minutes depending on the motor category (See section 5.8.4.4 of IEEE[4] Std 112–2004, (IEEE 112–2004), ''IEEE Standard Test Procedure for Polyphase Induction Motors and Generators,'' and section 10.3.1.3 of IEEE Std 114–2010, (IEEE 114–2010), ''IEEE Standard Test Procedure for Single-Phase Induction Motors''). DOE further notes that specifying that the external cooling is obtained by a free-flow of air differentiates air-over motors from other totally-enclosed pipe-ventilated motors. Based on these findings, DOE is considering defining an air-over motor as a motor that does not thermally stabilize without the application of external cooling by a free flow of air

[4] Institute for Electrical and Electronics Engineers.

during a rated temperature test according to IEEE 112–2004; CSA [5] C747–09 (Reaffirmed 2014), (CSA C747–09), ''Energy Efficiency Test Methods Small Motors''; or CSA C390–09 (Reaffirmed 2015), (CSA C390–10), ''Test Methods, Marking Requirements, and Energy Efficiency Levels for Three-phase Induction Motors'' for polyphase motors; or IEEE 114–2010 or CSA C747–09, for single-phase motors.

AC motors are designed to operate at a particular frequency. In the United States, AC power is delivered at 60 Hz. For this reason, DOE is considering whether to continue to limit the scope of a potential test procedure to only AC motors that are designed to operate at 60 Hz. DOE notes that this approach includes motors designed to operate at 60 Hz that are also capable of operating at other frequencies (*e.g.,* 50 Hz).

Motors can be designed to operate at an input waveform of AC or DC. DOE has found test procedures that apply to both AC and DC motors. DC motors must be fed a DC waveform, but some DC motors are advertised as substitutes for AC motors because a rectifier can be placed between the AC power source and the DC motor to convert the AC power to DC. In many cases, the rectifier may be integrated with the motor, creating a drop-in replacement for AC motors (*i.e.,* it can be used with the existing AC power supply). DOE is considering whether DC motors should be analyzed in a potential test procedure rulemaking.

Motors also are constructed with a particular frame size. Frame size most commonly refers to a height measurement between the centerline of the shaft and the bottom of the feet, but can also describe a motor's axial length. NEMA frame sizes are described in 2-, 3-, and 4-digit naming conventions. DOE has established regulations for small electric motors built in two-digit frame number series according to NEMA MG 1–1987 (*i.e.,* 42-, 48-, and 56-frame motors), and IEC equivalents. DOE is aware of motor topologies in Table II–3 within the horsepower ranges in Table II–1 that are available in additional frame sizes (*e.g.,* 3-digit). Due to the availability of additional frame sizes for topologies and horsepower ratings that may be considered for test procedures in a potential rulemaking, DOE is considering not using frame size or the frame size naming convention (NEMA digit count) as a means of limiting the categories of motors analyzed for a potential rulemaking, to the extent that this would not overlap with existing regulations for electric motors at 10 CFR 431.25.

Issue 1: DOE seeks comment, data, information and justification regarding a minimum and maximum horsepower limit for motors for which DOE may consider test procedures.

Issue 2: DOE seeks comment, data, and information about any additional motor category and associated horsepower range, frame sizes, and/or any additional features (such as voltage and service factor) that should be considered in a possible test procedures rulemaking and why (*e.g.,* motor categories and features presented in Table II–1, Table II–2, Table II–3, and Table II–4). DOE is also interested in detailed information on whether there would be a significant test burden resulting from requiring testing of such motors—and if so, the nature and extent of that burden.

Issue 3: DOE requests comment on the primary motor topologies included in Table II–3, including whether they should be considered, or not, in a possible test procedures rulemaking and why. DOE seeks comment on any motor topologies not listed that DOE should consider including in a possible test procedures rulemaking. DOE is interested in information on the potential test burden associated with testing such motors.

Issue 4: DOE seeks input on how an air-over motor could be identified based on physical and technical features. DOE requests comment on whether air-over motors could be defined based on their inability to thermally stabilize without the application of external cooling by a free flow of air during a rated temperature test according to either IEEE 112–2004, CSA C747–09, or CSA C390–10 for polyphase motors; or IEEE 114–2010 or CSA C747–09 for single-phase motors. In addition, DOE requests comment and information on whether all motors currently sold as ''air-over motors'' and which percentage of the market would meet this definition.

3. Exemptions

In a potential future rulemaking, any exemption from test procedures would likely be based on specific physical or design criteria that can be identified at the point of manufacture (*e.g.,* frame size, enclosure, service factor), and not on the advertised application of the motor. DOE would consider whether the exemptions from the existing regulations for electric motors at 10 CFR 431.25(h)-(j) would also apply to the motors under consideration for regulation in a potential test procedure rulemaking. These exemptions, outlined at 10 CFR 431.25(l), are as follows:

- Air-over electric motors;
- Component sets of an electric motor;
- Liquid-cooled electric motors;
- Submersible electric motors; and
- Inverter-only electric motors.

DOE adopted definitions for ''air-over electric motors,'' ''component sets,'' ''liquid-cooled electric motors,'' ''submersible electric motors,'' and ''inverter-only electric motors'' at 10 CFR 431.12. If DOE undertakes a test procedure rulemaking, it will evaluate the merits of adopting similar definitions and exemptions for motors with similar features. DOE will further investigate whether these categories of motors exist within the range of motors considered in any such rulemakings. For liquid-cooled, inverter-only, and submersible motors, DOE reviewed online manufacturer catalogs and one distributor's Web site and found at least one model corresponding to each of these three categories of motors that was within the horsepower ranges and frame sizes described in Table II–1.

Issue 5: DOE seeks comment, data, and information about any motor category that should be considered for exemption from a possible test procedure rulemaking and information providing justification for such exemptions. All exemptions, including exemptions targeted for motors that serve specific applications (*e.g.,* submersible motors), must be identified based on unique physical features of the motor. DOE seeks comment, data, and information on these physical features.

4. Motor Boundary

An electric motor is a device that converts electrical power into rotational mechanical power. Some motors may modify the electrical input via rectification, inversion, or other processes prior to generating a magnetic field within the motor. This electrical conversion process can take place via a device integrally connected to the motor, or via a device wired in-line between the power source and the motor. In a potential rulemaking, DOE plans to specify which components (*e.g.,* rectifiers, inverters) would be subject to consideration for the test procedure.

One example of a motor that includes electrical conversion is a DC brushless permanent magnet motor (commonly referred to as an electronically commutated motor [ECM]). Typically, the DC brushless permanent magnet motor is connected to AC power. The AC power is rectified into DC and inverted to a new waveform (*e.g.,* a rectangular waveform) that is then fed to the motor via electronic commutation.

[5] CSA Group.

While typically integral to the motor, this design could be implemented with the rectification and inversion either integral to or separate from the motor. DOE is considering defining such categories of motors as including all components essential to operating the motor. For motors that can be operated with and without non-integrally connected controls or electrical conversion devices, DOE may consider testing in each arrangement depending on which motor categories are included in any potential new and/or revised test procedure.

Issue 6: DOE requests comment on how to account for components included in a motor for motors that are sold in multiple pieces, specifically regarding how to categorize controls or electrical conversion components that may be non-integrally connected to the motor and how to treat them during testing. DOE requests comment on ways to identify control and conversion components that are essential to motor operation.

Issue 7: DOE seeks comments and feedback about whether the presence of a gear box should constitute a new motor model when added to a motor. More specifically, if DOE were to establish a test procedure for motors with gear boxes, should these motors have to be certified to DOE separately from the same motors without a gear box? DOE is interested in information regarding the potential test burden should separate certification be required. Does the gear box change the tested motor efficiency?

5. Motors Used in Dedicated Purpose Pool Pumps

Although motor regulations currently apply to certain small electric motors (subpart X of 10 CFR part 431) and electric motors (subpart B of 10 CFR part 431), regulations do not cover certain varieties of motors that are used in pool pump applications. For example, enclosed motors of less than one output horsepower are not subject to the current test procedure or energy conservation standards, nor are multispeed motors.

The issue of the efficiency of electric motors used in dedicated purpose pool pumps (DPPP) was brought up by several stakeholders in comments submitted in response DOE's direct final rule for DPPPs. 82 FR 5650 (January 18, 2017). Several manufacturers suggested that an energy conservation standard for the motors used in DPPPs was needed in addition to the standards for DPPPs themselves. This included a manufacturer of the motors used in pool pump applications, Regal Beloit Corporation, manufacturers of pumps, Hayward Industries, Inc. and Pentair Water Pool and Spa, Inc., and a manufacturer of pool equipment, Zodiac Pool Systems, Inc. (EERE–2015–BT–STD–0008, Regal, No. 122 at pg. 1; Hayward, No. 125 at p. 1; Pentair, No. 132 at pp. 1–2; Zodiac No. 134 at pp. 1–2). Other commenters also argued for a specific pool pump motor standard, including the California Investor Owned Utilities (CA IOUs), the industry trade association (Association of Pool and Spa Professionals (APSP)), and two policy advocacy organizations (the Appliance Standards Awareness Project (ASAP) and the Natural Resources Defense Council (NRDC)). (EERE–2015–BT–STD–0008; CA IOUs, No. 130 at p. 2; APSP, No. 127 at p. 2; ASAP No. 133 at pp. 4–5; NRDC No. 121 at p. 4). In response to these comments, DOE published a notice announcing a public meeting pertaining to potential energy conservation standards for DPPP motors. 82 FR 30845 (July 3, 2017). In order to consider the need for a specific pool pump motor regulations, DOE is requesting information on the physical characteristics of motors used in pool pump applications and any applicable test procedures that DOE should consider.

Issue 8: DOE is interested in any physical feature(s) or observable physical properties that would differentiate these motors from the currently regulated small electric motors at 10 CFR 431.446 and electric motors at 10 CFR 431.42525 that would help define the scope of applicability of the test procedure should DOE decide to proceed in consideration of one.

Issue 9: DOE also requests comment on any particular markings or labels applied to these products or if there are published industry standards that may be used to uniquely identify motors used in pool pump applications, for example sections of NEMA MG 1–2014, ''Motors and Generators,'' or of UL 1801, ''Standard for Swimming Pool Pumps, Filters, and Chlorinators'' and would help define how they should be tested.

B. Metric

The existing small electric motor test procedure uses motor average efficiency at full-load as the metric. 10 CFR 431.444. A manufacturer of small electric motors must determine the average efficiency, at full-load, of a basic model through testing and applying a sampling plan; or through the use of alternative methods for determining energy efficiency or energy use (also known as alternative efficiency determination methods, or ''AEDMs''). 10 CFR 431.445. For electric motors, the existing test procedure uses the metric nominal full-load efficiency. Provisions for determining a basic model's efficiency through testing or with an AEDM are currently described in 10 CFR 431.17.

In a potential test procedure rulemaking, DOE could evaluate whether to use the same metric and establish the performance of small electric motors and newly regulated motors based on their tested average full-load efficiency or whether to use a different metric, *such as a metric* based on motor full-load losses. The sampling plan small electric motor manufacturers must use to make representations of average full-load efficiency is discussed in section II.C.3 in this RFI.

Issue 10: DOE requests comment on the existing small electric motor and electric motor metrics and on any recommended new metrics for the motors under consideration in a test procedure rulemaking.

C. Test Procedures

Pursuant to EPCA's requirement that DOE review a given test procedure at least once every 7 years, DOE will undertake a test procedure review.

1. Method

DOE plans to (1) determine if the existing DOE test procedure requires revisions, and (2) determine whether new test procedures for any new motors identified in section II.A are needed (3) determine whether any new motors identified in section 11.A should be categorized as small electric motors or as electric motors are needed. If DOE develops test procedures for any new motors, it would consider either (1) adding testing instructions that modify the test methods currently incorporated by reference at 10 CFR 431.443, or (2) establishing new methods based on industry standards not currently incorporated by reference in 10 CFR 431.443.

The existing test procedure for small electric motors is codified at 10 CFR 431.443, 10 CFR 431.444, and 10 CFR 431.445. The referenced industry standards for each motor category are shown in Table II–5 in this RFI.

TABLE II–5—REFERENCED INDUSTRY STANDARDS FOR SMALL ELECTRIC MOTOR CATEGORIES

Motor category	Referenced industry standards
Single-phase small electric motors	IEEE 114–2010 or CSA C747–09.
Polyphase small electric motors less than or equal to 1 horsepower (0.75 kW).	IEEE 112–2004 Test Method A or CSA C747–09.
Polyphase small electric motors greater than 1 horsepower (0.75 kW)	IEEE 112–2004 Test Method B or CSA C390–10.

DOE reviewed existing industry standards from the IEEE, the CSA Group, and the International Electrotechnical Commission (IEC) and found existing test methods for all other motor topologies that DOE may consider in future regulations (see Table II–6). However, the existing test procedure may not apply to all existing mechanical designs or electrical features within a given motor category (*e.g.,* motors with air-over enclosures, which otherwise meet the definition of small electric motors or electric motors but fall outside the scope of IEEE 112–2004). DOE plans to consider amending the existing test procedure to address potential new motor categories.

For air-over motors specifically, DOE plans to investigate testing instructions that would allow testing based on the same industry standards incorporated by reference at 10 CFR 431.443. In the past, as part of the December 2013 electric motors test procedure final rule, DOE investigated possible methods to test air-over electric motors and determined that it did not have sufficient information to overcome the practical challenges associated with testing air-over motors, such as providing a standard flow of cooling air from an external source that provides a constant velocity over the tested motor under defined ambient temperature and barometric conditions. Therefore, at the time, DOE did not establish any test methods for air-over motors. 78 FR 75926, 78 FR 75962, 75973–75975 (December 13, 2013).

DOE reviewed section 8.2.1 of IEEE 114–2010 and section 5 of CSA C747–09, which include provisions for testing air-over single-phase motors. Typically, the measurements according to these test standards are performed when the tested motor's winding is thermally stable.[6] Because the windings of air-over motors would overheat without an external airflow and degrade the motor, both test methods include specific provisions for air-over motors. Both test methods require test measurements to be performed with sufficient ventilation to maintain a temperature within 70 °C–80 °C, therefore removing the need to accurately measure airflow by specifying a temperature range for the motor's winding instead. Because the motor winding temperature is inversely correlated to efficiency, a target winding temperature range is specified to enable relative comparability of efficiency for air-over motors. This temperature range (70–80 °C) was originally selected by CSA as it would reflect a winding temperature range that mimics the field operating conditions for air-over motors.[7]

NEMA published an air-over efficiency test standard which provides three testing methods for measuring the efficiency of single phase and polyphase air-over motors (NEMA Air-over Motor Efficiency Test Method).[8] Each test method requires a temperature test before performing the efficiency test according to the applicable test standard [9] and replaces the original temperature test portion of the applicable efficiency test. Although each of the three methods require the temperature test to be conducted differently,[10] the document describes the three testing methods as equivalent.

DOE intends to review these test methods, and evaluate whether a similar approach for testing single-phase and polyphase air-over motors should be considered. DOE will also review the possibility of testing polyphase air-over motors using different target temperatures depending on the air-over motor's insulation class for polyphase motors.

DOE also is evaluating possible test procedures for motors with non-standard construction. These motors, which otherwise meet the definition of small electric motors, include motor variants such as motors with special shaft dimensions, motors with brakes, or motors with vertical mounting. For these motors, DOE plans on reviewing the applicability of the testing instructions in section 4 of appendix B to subpart B of part 431.

Finally, DOE is also evaluating potential test procedures for synchronous motors. Specifically, DOE will evaluate the industry standards applicable to synchronous motors in Table II–6. DOE will consider each test procedure with respect to any proposed scope of applicability (*e.g.,* motor horsepower limits). For example, CSA C747–09 has a scope of 0.186 kW to 0.746 kW (0.25 hp to 1 hp), and IEEE Std 115–2009, (IEEE 115–2009), ''IEEE Guide for Test Procedures for Synchronous Machines,'' applies to larger than fractional horsepower motors (*i.e.,* greater than or equal to 1 hp); therefore, if the proposed scope of applicability of a test procedure spanned both industry standards, DOE would consider whether each industry standard was appropriate and would determine how to specify which industry standard applied to various synchronous motors. DOE, however, is uncertain as to the applicability of IEEE 115–2009 to AC permanent magnet synchronous and reluctance synchronous motors, one of the synchronous motor topologies in Table II–6 in this RFI.

[6] A rated load temperature test is a test during which the motor is loaded at the rated full-load by means of a dynamometer until it is thermally stable. Thermal stability is defined as the condition where the motor temperature does not change by more than 1 °C over 30 min or 15 min depending on the motor category (See section 5.8.4.4 of IEEE 112–2004 and section 10.3.1.3 of IEEE 114–2010)

[7] Additionally, DOE reviewed 366 single-phase, air-over motor models from five major motor manufacturers and observed the following distribution across insulation classes: A (1.5 percent); B (85 percent), F (13 percent); and H (0.5 percent). An insulation class B corresponds to a winding temperature of 75 °C according to Table 2 of IEEE 114–2010.

[8] NEMA MG1–2016, Supplement-2017. Motors and Generators Section IV Part 34: Air-Over Motor Efficiency Test Method. March 2017. Available at *http://www.nema.org/Standards/Pages/Motors-and-Generators.aspx.*

[9] IEEE 114–2010, IEEE 112–2014, CSA C390–10, or CSA C747–09, depending on the motor phase and rated motor horsepower.

[10] The NEMA Air-over Motor Efficiency Test Methods describes three temperature tests conducted by (1) thermally stabilizing while applying an air-flow based on customer specification; (2) bringing the air-over motor at full-load within 10 °C of a target temperature using external cooling air (the target temperature for single phase motors is 75 °C, while the target temperature for polyphase motors varies depending on the motor's insulation class); or (3) bringing the air-over motor at a reduced load condition to within 10 °C of the target temperature without using external cooling air.

TABLE II–6—PRIMARY MOTOR TOPOLOGIES AND EXISTING INDUSTRY STANDARDS

Motor topology	Existing industry standard
Permanent-Split Capacitor	IEEE 114–2010; IEC 60034–2–1: 2014 †; CSA C747–09.
Capacitor-Start (CSCR, CSIR)	IEEE 114–2010*; IEC 60034–2–1: 2014; CSA C747–09.
Split-phase	IEEE 114–2010; IEC 60034–2–1: 2014; CSA C747–09.
Shaded-Pole	IEEE 114–2010; IEC 60034–2–1: 2014; CSA C747–09.
Line-Start Permanent Magnet	IEC 60034–2–1: 2014; CSA C747–09.
AC Permanent Magnet Synchronous	IEEE 115–2009; IEEE 1812–2014 ‡; IEC 60034–2–1: 2014; CSA C747–09. (The IEC and CSA standards may not apply to auxiliary starting motor designs).
Polyphase induction, squirrel cage	IEEE 112–2004 (Method A and B)**; IEC 60034–2–1: 2014; CSA C390–10; CSA C747–09.
Reluctance Synchronous	CSA C747–09.
DC Brushed Permanent Magnet	IEC 60034–2–1: 2014.
Switched Reluctance ***	CSA C747–09.
DC Brushless Permanent Magnet ***	CSA C747–09.

* Includes testing provisions for air-over motors.
** Does not include all polyphase induction squirrel cage motors (*e.g.,* air over motors, inverter-only motors).
*** These motors are often referred to as electronically commutated motors (ECM).
† IEC 60034–2–1: 2014, ''Rotating electrical machines—Part 2–1: Standard methods for determining losses and efficiency from tests (excluding machines for traction vehicles).''.
‡ IEEE 1812–2014 ''IEEE Trial-Use Guide for Testing Permanent Magnet Machines.''

Issue 11: DOE seeks comment and information on whether and why the existing test procedure for determining the average full-load efficiency of small electric motors requires revision, and, if so, what these revisions should be. DOE also requests comment on the impact to test burden from any suggested revisions.

Issue 12: DOE requests comment and input on the availability of methods for testing other topologies (motors other than CSCR, CSIR, and polyphase) listed in Table II–6 in this RFI. If a new test procedure is needed, DOE requests information on any additional instructions that would be required to test these motor topologies.

Issue 13: DOE requests comment on any other design features of a motor that could require modifications to an industry standard for testing, what these modifications should be, and why. In particular, DOE requests comment on whether testing instructions similar to the ones found in section 4 of appendix B to subpart B of part 431 would apply to any new motors that may be included in a possible test procedure rulemaking.

Issue 14: DOE requests comment and input regarding the existing testing provisions for air-over motors in section 8.2.1 of IEEE 114–2010, section 5 of CSA C747–09, and in the NEMA Air-over Motor Efficiency Test Method. Specifically, DOE requests feedback and supporting data on the repeatability and level of accuracy of these methods, and on whether these or other methods would lead to equivalent results when applied to the same motor.

Issue 15: DOE understands that customers may provide air-velocity specifications for air-over motors. DOE requests comment on whether testing air-over motors according to customer air-velocity specifications is currently used by the industry and why. Additionally DOE requests comment on whether testing air-over motors according to customer air-velocity specifications would allow comparability of efficiency across motors.

Issue 16: DOE is aware that, because efficiency is inversely correlated to temperature, conducting the temperature test using a different target temperature for polyphase air-over motors depending on the motor's insulation class may lead to measured efficiency values that are not comparable across insulation classes. When measuring polyphase air-over motor efficiency, DOE requests comment on whether the temperature test should be conducted using a single target temperature in order to allow relative comparability of polyphase air-over motor efficiency across insulation classes. If not, DOE requests comment on a justification for why testing polyphase air-over motors using a temperature test at different target temperatures depending on the motor's insulation class would still provide comparable efficiency results across insulation classes.

Issue 17: DOE also requests comment regarding any additional instructions for testing electronically commutated motors or other categories of motors with controls (*e.g.,* variable-speed drives), and how controls affect average full load efficiency of the motor.

Issue 18: DOE requests comment on industry standards applicable to synchronous motors and their applicability to the horsepower range (*i.e.,* ≥0.125 hp and ≤15 hp) that DOE is considering in a potential test procedure rulemaking (*e.g.,* IEEE 115–2009, IEEE 1812–2014, IEC 60034–2–1: 2014, and CSA C747–09). DOE also requests comment on the applicability of IEEE 115–2009 to AC permanent magnet synchronous and synchronous reluctance motors.

Issue 19: DOE requests comment on the feasibility of testing motors that are components of other equipment. Specifically, DOE requests comments on whether some motors that only enter commerce as components of another product require modifications to an industry standard for testing and on what these modifications should be and why.

Issue 20: DOE requests comment and supporting data on testing times and associated costs of efficiency testing. Specifically, how many hours it takes to test a motor per each industry standard listed in Table II–6, if manufacturers test their own models or hire a third-party for testing, if manufacturers need to purchase additional test equipment according to the industry standards in Table II–6, and if there are any other costs associated with testing.

Issue 21: DOE requests comment on the benefits and burdens of adopting any already existing voluntary consensus-based or other appropriate test procedure, without modification.

2. Motor Horsepower

As part of the potential test procedure rulemaking, DOE is considering establishing a method to determine the load point for testing a motor under full-load (*i.e.,* rated motor horsepower). Rated motor horsepower is generally not an intrinsic, observable motor property, but rather it is declared by the

manufacturer, and motors are usually capable of operating both above and below the rated motor horsepower. As a result, the existing test procedure in subpart X of 10 CFR part 431 relies on the definition of small electric motor (*e.g.,* a general purpose motor according to NEMA MG 1–1987), but the DOE regulations do not explicitly address how to determine the full-load or rated motor horsepower of a motor.

To better specify the test procedures, DOE is considering approaches to determine rated motor horsepower based on motor properties like breakdown torque and temperature rise. NEMA Standards Publication MG 1–2014, (MG 1–2014), ''Motors and Generators,'' section 10.34 specifies that the rated motor horsepower of a small or medium single-phase induction motor is based on breakdown torque. NEMA MG 1–2014 then provides ranges of breakdown torque associated with rated motor horsepower and pole configurations. However, DOE identified multiple motor models that had a manufacturer-listed breakdown torque outside of the associated NEMA range (*i.e.,* for a given topology, pole configuration, and rated motor horsepower), indicating not all motors follow the conventions listed in NEMA MG 1–2014.

Another option would be to determine the rated motor horsepower based on a load which results in a temperature rise associated with the insulation class of the motor (*i.e.,* service factor load). Insulation class is a letter designation (*i.e.,* A, B, F, and H), which has an associated temperature rise indicating the temperature at which the motor can operate, and is commonly displayed in manufacturer literature and on motor nameplates. DOE is aware of insulation class temperature rises in NEMA MG 1–2014 section 12.42 and 12.43, and also in IEEE 112–2004 Table 1 which may be applicable to this method. The load which results in the insulation class temperature rise would be a repeatable loading point, but DOE will consider if it is appropriate for determining efficiency, or if it could be indirectly used as a reference point for calculating the rated motor horsepower.

Issue 22: DOE requests comment on how industry currently determines the full-load, or rated, horsepower of a motor, and how DOE should specify this quantity.

Issue 23: DOE requests comment and input on a method to determine full-load, or rated, horsepower of a motor based on the breakdown torque of a motor as specified in NEMA MG 1–2014.

Issue 24: DOE requests comment and input on a method to determine full-load, or rated, horsepower of a motor based on the load which results in a temperature rise associated with the insulation class of the motor (*i.e.,* service factor load). DOE also requests comment on whether all motors have an associated NEMA insulation class (*i.e.,* A, B, F, and H) that is known by the manufacturer, and if it is not known if there are methods a manufacturer can use to determine the insulation class. DOE also requests comment on the temperature rise that should be associated with each insulation class for this method (*e.g.,* values from NEMA MG 1–2014 or IEEE 112–2004).

3. Represented Value

The procedure for determining the represented value of average full-load efficiency of a small electric motor can be found at 10 CFR 431.445. Specifically, DOE provides sampling provisions that must be used when determining the average full-load efficiency of a basic model through testing. On June 24, 2016, DOE published a separate notice of proposed rulemaking on certification, compliance, labeling, and enforcement for electric motors and small electric motors, which included a proposal to revise the sampling provisions for small electric motors to conform with the sampling provisions for other types of covered product and equipment at 10 CFR part 429, subpart B. 81 FR 41378.

DOE plans to investigate whether the proposed sampling provision for determining the represented value [11] of a small electric motor could apply to the new motors DOE may consider regulating or whether the current sampling provisions need to be revised. DOE's preference is that all motors discussed in section II.A be subject to the same sampling provisions and represented value calculation.

Issue 25: DOE requests comment on applying (1) the sampling plan in DOE's separate notice of proposed rulemaking (81 FR 41378, [June 24, 2016]) and (2) the represented value calculation for small electric motors to new motors DOE may consider regulating.

D. Other Test Procedure Topics

In addition to the issues identified earlier in this document, DOE welcomes comment on any other aspect of the existing test procedures for small electric motors not already addressed by the specific areas identified in this document. DOE particularly seeks information that would improve the repeatability, reproducibility, and consumer representativeness of the test procedures. DOE also requests information that would help DOE create a procedure that would limit manufacturer test burden through streamlining or simplifying testing requirements. Comments regarding repeatability and reproducibility are also welcome.

DOE also requests feedback on any potential amendments to the existing test procedure that could be considered to address impacts on manufacturers, including small businesses. Regarding the Federal test method, DOE seeks comment on the degree to which the DOE test procedure should consider and be harmonized with the most recent relevant industry standards for small electric motors and whether there are any changes to the Federal test method that would provide additional benefits to the public.

Additionally, DOE requests comment on whether the existing test procedures limit a manufacturer's ability to provide additional features to consumers of small electric motors. DOE particularly seeks information on how the test procedures could be amended to reduce the cost of these new or additional features and make it more likely that such features are included on small electric motors.

III. Public Participation

DOE invites all interested parties to submit in writing by August 30, 2017, comments and information on matters addressed in this RFI and on other matters relevant to DOE's consideration of new and/or amended test procedure for small electric motors and electric motors. These comments and information will aid in the development of a test procedure NOPR for small electric motors and electric motors if DOE determines that amended test procedures may be appropriate for these products.

Submitting comments via *http://www.regulations.gov.* The *http://www.regulations.gov* Web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to

[11] A represented value is a figure characterizing motor energy efficiency for the purposes of marketing or certifying performance to DOE.

technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *http://www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through *http://www.regulations.gov* cannot be claimed as CBI. Comments received through the Web site will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *http://www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *http://www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery, or mail. Comments and documents submitted via email, hand delivery, or mail also will be posted to *http://www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery two well-marked copies: one copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include (1) a description of the items, (2) whether and why such items are customarily treated as confidential within the industry, (3) whether the information is generally known by or available from other sources, (4) whether the information has previously been made available to others without obligation concerning its confidentiality, (5) an explanation of the competitive injury to the submitting person which would result from public disclosure, (6) when such information might lose its confidential character due to the passage of time, and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

DOE considers public participation to be a very important part of the process for developing test procedures. DOE actively encourages the participation and interaction of the public during the comment period in each stage of the rulemaking process. Interactions with and between members of the public provide a balanced discussion of the issues and assist DOE in the rulemaking process. Anyone who wishes to be added to the DOE mailing list to receive future notices and information about this rulemaking should contact Appliance and Equipment Standards Program staff at (202) 586–6636 or via email at *ApplianceStandardsQuestions@ee.doe.gov.*

Issued in Washington, DC, on July 14, 2017.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 34

[Docket No. OCC–2017–0011]

RIN 1557–AE18

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Docket No. R–1568; RIN 7100 AE–81]

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 323

RIN 3064 AE–56

Real Estate Appraisals

AGENCY: Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed rulemaking and request for comment.

SUMMARY: The OCC, Board, and FDIC (collectively, the agencies) are inviting comment on a proposed rule to amend the agencies' regulations requiring appraisals of real estate for certain transactions. The proposal would increase the threshold level at or below which appraisals would not be required for commercial real estate transactions from $250,000 to $400,000. This proposed change to the appraisal threshold reflects comments the

agencies received through the regulatory review process required by the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA) and completed in early 2017. For commercial real estate transactions with a value at or below the proposed threshold, the amended rule would require institutions to obtain an evaluation of the real property collateral that is consistent with safe and sound banking practices if the institution does not obtain an appraisal by a state certified or licensed appraiser.

DATES: Comments must be received by September 29, 2017.

ADDRESSES: Interested parties are encouraged to submit written comments jointly to all of the agencies. Commenters should use the title ''Real Estate Appraisals'' to facilitate the organization and distribution of comments among the agencies. Interested parties are invited to submit written comments to:

Office of the Comptroller of the Currency: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by the Federal eRulemaking Portal or email, if possible. Please use the title ''Real Estate Appraisals'' to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal—Regulations.gov:* Go to *www.regulations.gov.* Enter ''Docket ID OCC–2017–0011'' in the Search Box and click ''Search.'' Click on ''Comment Now'' to submit public comments.
- Click on the ''Help'' tab on the *Regulations.gov* home page to get information on using *Regulations.gov*, including instructions for submitting public comments.
- *Email: regs.comments@occ.treas.gov.*
- *Mail:* Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219.
- *Fax:* (571) 465–4326.
- *Hand Delivery/Courier:* 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219.

Instructions: You must include ''OCC'' as the agency name and ''Docket ID OCC–2017–0011'' in your comment. In general, OCC will enter all comments received into the docket and publish them on the *Regulations.gov* Web site without change, including any business or personal information that you provide such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this proposed rule by any of the following methods:

- *Viewing Comments Electronically:* Go to *www.regulations.gov.* Enter ''Docket ID OCC–2017–0011'' in the Search box and click ''Search.'' Click on ''Open Docket Folder'' on the right side of the screen and then ''Comments.'' Comments can be filtered by clicking on ''View All'' and then using the filtering tools on the left side of the screen.
- Click on the ''Help'' tab on the *Regulations.gov* home page to get information on using *Regulations.gov.* Supporting materials may be viewed by clicking on ''Open Docket Folder'' and then clicking on ''Supporting Documents.'' The docket may be viewed after the close of the comment period in the same manner as during the comment period.
- *Viewing Comments Personally:* You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC. 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 to submit to security screening in order to inspect and photocopy comments.

Board of Governors of the Federal Reserve System: You may submit comments, identified by [Docket No. R–1568 and RIN 7100 AE–81], by any of the following methods:

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

All public comments will be made available on the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street NW. (between 18th and 19th Streets NW.), Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays.

Federal Deposit Insurance Corporation: You may submit comments, identified by RIN 3064–AE56, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Agency Web site: http://www.FDIC.gov/regulations/laws/federal/propose.html.*
- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments/Legal ESS, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivered/Courier:* The guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m.
- *Email: Comments@FDIC.gov.*

Comments submitted must include ''FDIC'' and ''Real Estate Appraisals.'' Comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal/propose.html* including any personal information provided.

FOR FURTHER INFORMATION CONTACT:

OCC: G. Kevin Lawton, Appraiser (Real Estate Specialist), (202) 649–7152, Mitchell E. Plave, Special Counsel, Legislative and Regulatory Activities Division, (202) 649–5490, for persons who are deaf or hard of hearing, TTY, (202) 649–5597, or Christopher Manthey, Special Counsel, or Joanne Phillips, Attorney, Bank Activities and Structure Division, (202) 649–5500, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

Board: Anna Lee Hewko, Associate Director, (202) 530–6260, or Carmen Holly, Senior Supervisory Financial Analyst, (202) 973–6122, Division of Supervision and Regulation; or Gillian Burgess, Senior Counsel, (202) 736–5564, Matthew Suntag, Senior Attorney, (202) 452–3694, or Kirin Walsh, Attorney, (202) 452–3058, Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551.

FDIC: Beverlea S. Gardner, Senior Examination Specialist, Division of Risk Management and Supervision, at (202) 898–3640, Mark Mellon, Counsel, Legal Division, at (202) 898–3884, Kimberly Stock, Counsel, Legal Division, at (202) 898–3815, Benjamin K. Gibbs, Counsel, at (202) 898–6726, or Lauren Whitaker, Senior Attorney, at (202) 898–3872, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Background

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Title XI) [1] directs each federal financial institutions regulatory agency [2] to publish appraisal regulations for federally related transactions within its jurisdiction. The purpose of Title XI is to protect federal financial and public policy interests [3] in real estate-related transactions by requiring that real estate appraisals used in connection with federally related transactions (Title XI appraisals) be performed in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.[4]

Title XI directs the agencies to prescribe appropriate standards for Title XI appraisals under the agencies' respective jurisdictions,[5] including, at a minimum, that Title XI appraisals be: (1) Performed in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP); [6] (2) written appraisals, as defined by the statute; and (3) subject to appropriate review for compliance with USPAP. All federally related transactions must have Title XI appraisals.

Title XI defines a ''federally related transaction'' as a real estate-related financial transaction that is regulated or engaged in by a federal financial institutions regulatory agency and requires the services of an appraiser.[7] A real estate-related financial transaction is defined as any transaction that involves: (i) The sale, lease, purchase, investment in or exchange of real property, including interests in property, or financing thereof; (ii) the refinancing of real property or interests in real property; and (iii) the use of real property or interests in real property as security for a loan or investment, including mortgage-backed securities.[8]

The agencies have authority to determine those real estate-related financial transactions that do not require the services of a certified or licensed appraiser and are therefore exempt from the appraisal requirements of Title XI. These real estate-related financial transactions are not federally related transactions under the statutory or regulatory definitions because they are not required to have Title XI appraisals.[9]

The agencies have exercised this authority by exempting several categories of real estate-related financial transactions from the appraisal requirements.[10] The agencies have determined that these categories of transactions do not require appraisals by state certified or licensed appraisers in order to protect federal financial and public policy interests or to satisfy principles of safe and sound banking.

In 1992, Congress amended Title XI, expressly authorizing the agencies to establish a threshold level at or below which an appraisal by a state certified or licensed appraiser is not required in connection with federally related transactions if the agencies determine in writing that the threshold does not represent a threat to the safety and soundness of financial institutions.[11] In the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act),[12] Congress amended the threshold provision to require concurrence ''from the Bureau of Consumer Financial Protection that such threshold level provides reasonable protection for consumers who purchase 1–4 unit single-family residences.'' [13] As noted above, transactions at or below the threshold level are exempt from the Title XI appraisal requirements and thus are not federally related transactions.

Under the current thresholds, which were established by rulemaking in 1994,[14] all real estate-related financial transactions with a transaction value [15] of $250,000 or less, as well as certain real estate-secured business loans (qualifying business loans) with a transaction value of $1 million or less, do not require appraisals.[16] Qualifying business loans are business loans that are real estate-related financial transactions and that are not dependent on the sale of, or rental income derived from, real estate as the primary source of repayment.[17]

For real estate-related financial transactions that are exempt from the appraisal requirement because they are within the applicable thresholds or qualify for the exemption for certain existing extensions of credit,[18] the

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[1] 12 U.S.C. 3331 *et seq.*

[2] ''Federal financial institutions regulatory agency'' means the Board, the FDIC, the OCC, the National Credit Union Association (NCUA), and, formerly, the Office of Thrift Supervision. 12 U.S.C. 3350(6).

[3] These interests include those stemming from the federal government's roles as regulator and deposit insurer of financial institutions that engage in real estate lending and investment, guarantor or lender on mortgage loans, and as a direct party in real estate-related financial transactions. These federal financial and public policy interests have been described in predecessor legislation and accompanying Congressional reports. *See* Real Estate Appraisal Reform Act of 1988, H.R. Rep. No. 100–1001, pt. 1, at 19 (1988); 133 Cong. Rec. 33047–33048 (1987).

[4] 12 U.S.C. 3331.

[5] 12 U.S.C. 3339. The agencies' Title XI appraisal regulations apply to transactions entered into by the agencies or by institutions regulated by the agencies that are depository institutions or bank holding companies or subsidiaries of depository institutions or bank holding companies. OCC: 12 CFR part 34, subpart C; Board: 12 CFR 225.61(b); 12 CFR part 208, subpart E; FDIC: 12 CFR part 323.

[6] USPAP is written and interpreted by the Appraisal Standards Board of the Appraisal Foundation. Adopted by Congress in 1989, USPAP contains generally recognized ethical and performance standards for the appraisal profession in the United States, including real estate, personal property, and business appraisals. *See http://www.appraisalfoundation.org/imis/TAF/Standards/Appraisal_Standards/Uniform_Standards_of_Professional_Appraisal_Practice/TAF/USPAP.aspx?hkey=a6420a67-dbfa-41b3-9878-fac35923d2af.*

[7] 12 U.S.C. 3350(4) (defining ''federally related transaction'').

[8] 12 U.S.C. 3350(5).

[9] *See* 59 FR 29482 (June 7, 1994).

[10] *See* OCC: 12 CFR 34.43(a); Board: 12 CFR 225.63(a); FDIC: 12 CFR 323.3(a).

[11] Housing and Community Development Act of 1992, Public Law 102–550, sec. 954, 106 Stat. 3894 (amending 12 U.S.C. 3341).

[12] Public Law 111–203, 124 Stat.1376.

[13] Dodd-Frank Act, sec. 1473, 124 Stat. 2190 (amending 12 U.S.C. 3341(b)).

[14] *See* 59 FR 29482 (June 7, 1994). The NCUA promulgated a similar rule with similar thresholds in 1995. 60 FR 51889 (October 4, 1995).

[15] For loans and extensions of credit, the transaction value is the amount of the loan or extension of credit. For sales, leases, purchases, investments in or exchanges of real property, the transaction value is the market value of the real property. For the pooling of loans or interests in real property for resale or purchase, the transaction value is the amount of each such loan or the market value of each such real property, respectively. *See* OCC: 12 CFR 34.42(m); Board: 12 CFR 225.62(m); FDIC: CFR 323.2(m).

[16] *See* OCC: 12 CFR 34.43(a)(1) and (5); Board: 12 CFR 225.63(a)(1) and (5); FDIC: 12 CFR 323.3(a)(1) and (5).

[17] OCC: 12 CFR 34.43(a)(5); Board: 12 CFR 225.63(a)(5); FDIC: 12 CFR 323.3(a)(5).

[18] Transactions that involve an existing extension of credit at the lending institution are exempt from the Title XI appraisal requirements, but are required to have evaluations, provided that there has been no obvious and material change in market conditions or physical aspects of the property that threatens the adequacy of the institution's real estate collateral protection after the transaction, even with the advancement of new monies; or there is no advancement of new monies, other than funds necessary to cover reasonable closing costs. *See* OCC: 12 CFR 34.43(a)(7) and (b); Board: 12 CFR 225.63(a)(7) and (b); FDIC: 12 CFR 323.3(a)(7) and (b).

appraisal regulations require financial institutions to obtain an evaluation of the real property collateral that is consistent with safe and sound banking practices.[19] An evaluation should contain sufficient information and analysis to support the financial institution's decision to engage in the transaction. However, evaluations need not be performed in accordance with USPAP or by certified or licensed appraisers. The agencies have provided supervisory guidance for conducting evaluations in a safe and sound manner in the *Interagency Appraisal and Evaluation Guidelines* (Guidelines).[20]

B. The EGRPRA Process

In early 2017, the agencies completed a review of their regulations pursuant to EGRPRA, which requires that, not less than once every 10 years, the Federal Financial Institutions Examination Council (FFIEC), Board, OCC, and FDIC conduct a review of their regulations to identify outdated or otherwise unnecessary regulatory requirements imposed on insured depository institutions (IDIs).[21]

As part of the EGRPRA review, the agencies received numerous comments from bankers, banking trade associations, associations of appraisers, and other commenters related to the Title XI appraisal regulations. These comments included recommendations to increase the thresholds at or below which real estate-related financial transactions are exempt from the Title XI appraisal requirements. Some commenters noted that the current thresholds have not been adjusted since they were established in 1994, even though property values have increased, and that the time and cost associated with the appraisal process impose an unnecessary burden in the completion of smaller-dollar amount real estate-related transactions. Some commenters also argued that the time and financial costs attributed to meeting the appraisal requirements at the current threshold levels particularly affect banks in rural markets. These commenters contended that it is often difficult to find state certified and licensed appraisers to complete assignments for properties in rural areas.[22]

In March 2017, the agencies submitted a joint EGRPRA report to Congress (EGRPRA Report) that identified potential initiatives to reduce regulatory burden.[23] In the EGRPRA Report, the agencies addressed comments received concerning the appraisal thresholds and stated that the agencies would propose an increase to the threshold for commercial real estate transactions from $250,000 to $400,000.[24] Section II of this **SUPPLEMENTARY INFORMATION** invites comments on this proposed increase. The agencies also stated their intention to gather more information about the appropriateness of increasing the $1 million threshold for qualifying business loans, which is being done through a request for comment in Section III of the **SUPPLEMENTARY INFORMATION**.

In the EGRPRA Report, the agencies also addressed whether it would be appropriate to increase the current $250,000 threshold for transactions secured by residential real estate. The agencies determined that it would not be appropriate to increase the threshold for this category of transactions at this time based on three considerations. First, the agencies observed that any increase in the threshold for residential transactions would have a limited impact on burden, as appraisals would still be required for the vast majority of these transactions pursuant to rules of other federal government agencies and the government-sponsored enterprises (GSEs).[25] As reflected in the 2015 Home Mortgage Disclosure Act (HMDA) data,[26] at least 90 percent of residential mortgage loan originations had loan amounts at or below the threshold, were eligible for sale to GSEs, or were insured by the Federal Housing Administration or the United States Department of Veterans Affairs. Those transactions are not subject to the Title XI appraisal regulations, but the majority of those transactions are subject to the appraisal requirements of other government agencies or the GSEs. Therefore, raising the appraisal threshold for residential transactions in the Title XI appraisal regulations would have limited impact on burden.

Second, appraisals can provide protection to consumers by helping to assure the residential purchaser that the value of the property supports the purchase price and the mortgage amount.[27] The consumer protection role of appraisals is reflected in amendments made to Title XI and the Truth in Lending Act (TILA) [28] through the Dodd-Frank Act governing the scope of transactions requiring the services of a certified or licensed appraiser. These include the addition of the CFPB to the group of agencies assigned a role in the appraisal threshold-setting process for Title XI,[29] and a new TILA provision requiring appraisals for loans involving ''higher-risk mortgages.'' [30]

[19] *See* OCC: 12 CFR 34.43(b); Board: 12 CFR 225.63(b); FDIC: 12 CFR 323.3(b).

[20] 75 FR 77450 (Dec. 10, 2010). *See also* Interagency Advisory on the Use of Evaluations in Real Estate-Related Financial Transactions, OCC Bulletin 2016–8 (March 4, 2016); Board SR Letter 16–5 (March 4, 2016); Supervisory Expectations for Evaluations, FDIC FIL–16–2016 (March 4, 2016).

[21] Public Law 104–208, Div. A, Title II, sec. 2222, 110 Stat. 3009–414, (1996) (codified at 12 U.S.C. 3311). The FFIEC is an interagency body comprised of the Board, OCC, FDIC, NCUA, Bureau of Consumer Financial Protection (CFPB) and State Liaison Committee. Of these, only the Board, OCC and FDIC are statutorily required to undertake the EGRPRA review. The FFIEC does not issue regulations that impose burden on financial institutions and therefore its regulations were not included in the EGRPRA review. The NCUA is not required to participate in the EGRPRA review, but elected to review its regulations pursuant to the goals of EGRPRA, as it did during the agencies' first EGRPRA review 10 years ago. Accordingly, the NCUA participated in the recent EGRPRA review process with the Board, OCC and FDIC. The results of the NCUA's review are included in Part II of the EGRPRA Report, described below. The CFPB is required to review its significant rules and publish a report of its review no later than five years after the rules takes effect. *See* 12 U.S.C. 5512(d).

[22] Earlier this year, the agencies and the NCUA issued an advisory on appraiser availability that points to alternatives that may help in areas facing a shortage of appraisers. *Interagency Advisory on the Availability of Appraisers. See* OCC Bulletin 2017–19 (May 31, 2017); Board SR Letter 17–4 (May 31, 2017); FDIC FIL–19–2017 (May 31, 2017).

[23] FFIEC, *Joint Report to Congress: Economic Growth and Regulatory Paperwork Reduction Act,* (March 2017), (EGRPRA Report), *available at https://www.ffiec.gov/pdf/2017_FFIEC_EGRPRA_Joint-Report_to_Congress.pdf.*

[24] The $250,000 threshold in the current Title XI appraisal regulations applies, by its terms, to all real estate-related financial transactions, whether or not the borrower is a consumer.

[25] Other Federal Government agencies involved in the residential mortgage market include the U.S. Department of Housing and Urban Development (HUD), the U.S. Department of Veterans Affairs, and the Rural Housing Service of the U.S. Department of Agriculture. These agencies, along with the GSEs (which are regulated by the Federal Housing Finance Agency (FHFA)), have the authority to set separate appraisal requirements for loans they originate, acquire, or guarantee, and generally require an appraisal by a certified or licensed appraiser for residential mortgages regardless of the loan amount.

[26] *See* FFIEC, *Home Mortgage Disclosure Act, www.ffiec.gov/hmda/.*

[27] The agencies posited in the 1994 amendments to the Title XI appraisal regulations that the timing of the appraisal may provide limited consumer protection. Changes to consumer protection regulations since 1994 now ensure that a consumer receives a copy of appraisals and other valuations used by a creditor to make a credit decision at least three business days before consummation of the transaction (for closed-end credit) or account opening (for open-end credit). *See* 12 CFR 1002.14 (for business or consumer credit secured by a first lien on a dwelling).

[28] 15 U.S.C. 1601 *et seq.*

[29] Dodd-Frank Act, Public Law 111–203, Title XIV, sec. 1473(a), 124 Stat. 2190 (2010), (codified at 12 U.S.C. 3341(b)), as discussed earlier in this **SUPPLEMENTARY INFORMATION**.

[30] ''Higher-risk mortgages'' are certain mortgages with an annual percentage rate that exceeds the average prime offer rate by a specified percentage. *See* Dodd-Frank Act, Public Law 111–203, Title XIV, sec. 1471, 124 Stat. 2185 (2010), which added section 129H to TILA, (codified at 15 U.S.C. 1639h).

Continued

During the EGRPRA process, the staff of the agencies conferred with the CFPB regarding comments the agencies received supporting an increase in the threshold for 1-to-4 family residential transactions. CFPB staff shared the view that appraisals can provide consumer protection benefits and their concern about potential risks to consumers resulting from an expansion of the number of residential mortgage transactions that would be exempt from the Title XI appraisal requirement.

Third, the agencies considered safety and soundness concerns that could result from a threshold increase for residential transactions. As the EGRPRA Report noted, the 2008 financial crisis showed that, like other asset classes, imprudent residential mortgage lending can pose significant risks to financial institutions.

For these reasons, the agencies concluded in the EGRPRA Report that a change to the current $250,000 threshold for residential mortgage loans would not be appropriate at the present time. The agencies are interested in comment on whether there are other factors that should be considered in evaluating the current threshold for 1-to-4 family residential transactions and whether the threshold can and should be raised, consistent with consumer protection, safety and soundness, and reduction of unnecessary regulatory burden. The agencies will also continue to consider possibilities for relieving burden related to appraisals for residential mortgage loans, such as coordination of the agencies' Title XI appraisal regulations with the practices of HUD, the GSEs, and other federal participants in the residential real estate market.

II. Revisions to the Title XI Appraisal Regulations

A. Threshold Increase for Commercial Real Estate Transactions

Overview of Proposal

The agencies propose to amend the Title XI appraisal regulations to increase the monetary threshold for commercial real estate transactions at or below which a Title XI appraisal would not be required.[31] The proposal would establish a separate threshold for commercial real estate transactions of $400,000, which represents an increase from the current threshold of $250,000 for all real estate-related financial transactions.

In considering whether to propose an increased threshold for commercial real estate transactions, the agencies considered the comments received through the EGRPRA process, and took into account whether changes to the threshold would be appropriate to reduce regulatory burden consistent with the federal financial and public policy interests in real estate-related financial transactions and the safety and soundness of regulated institutions.

As stated, the threshold for exempt transactions was last modified in 1994. Given increases in commercial property values since that time, the current threshold requires institutions to obtain Title XI appraisals on a larger proportion of commercial real estate transactions than in 1994. This increase in the number of appraisals required may contribute to the increased burden in time and cost described by the EGRPRA commenters.

Based on supervisory experience and available data, the agencies propose to increase the threshold for commercial real estate transactions, as defined below, to $400,000. This proposal would reduce burden for both rural and non-rural institutions and, as discussed below, would not pose a threat to the safety and soundness of financial institutions. The agencies are consulting with the CFPB regarding this proposal and will continue this consultation in developing a final rule.

The agencies propose to make the proposal, if adopted, effective on publication of the final rule in the **Federal Register**.[32]

Question 1. The agencies invite comment on the proposed effective date, including whether this time period is appropriate and, if not, why.

Definition of Commercial Real Estate Transaction

The proposed $400,000 threshold would apply only to transactions defined as ''commercial real estate transactions.'' Under the proposed definition, a commercial real estate transaction would include any ''real estate-related financial transaction,'' as defined in the Title XI appraisal regulations, excluding any loans secured by a 1-to-4 family residential property,[33] but including loans that finance the construction of buildings with 1-to-4 dwelling units and that do not include permanent financing.[34] Accordingly, the definition would include a loan extended to a consumer to finance the initial construction [35] of the consumer's dwelling, but exclude loans that provide both initial construction funding and permanent financing.[36]

The proposed definition would largely capture the following four categories of loans secured by real estate in the Consolidated Reports of Condition and Income (Call Report) [37] (FFIEC 031; RCFD 1410), namely loans that are: (1) For construction, land development, and other land loans; (2) secured by farmland; (3) secured by residential properties with five or more units; or (4) secured by nonfarm nonresidential properties. However, loans that provide both initial construction funding and permanent financing and are reported as construction, land development, and other land loans during the construction phase would be excluded from the definition.

The definition generally aligns with the categories of transactions to which

See also Appraisals for Higher-Priced Mortgage Loans, 78 FR 78520 (December 26, 2013) (interagency rule implementing appraisal requirements for higher-priced mortgage loans).

[31] The agencies have coordinated with the NCUA in developing this proposal. The agencies understand that the NCUA is evaluating options to develop a separate proposal to provide comparable relief for federally insured credit unions.

[32] The Riegle Community Development and Regulatory Improvement Act of 1994, Public Law 103–325, 108 Stat. 2163 (Riegle Act) provides that rules imposing additional reporting, disclosures, or other new requirements on IDIs generally must take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form. 12 U.S.C. 4802(b). As discussed further in the Section IV of the **SUPPLEMENTARY INFORMATION**, the proposed rule does not impose any new requirements on IDIs, and, as such, the effective date requirement of the Riegle Act is inapplicable. Additionally, the 30-day delayed effective date required under the Administrative Procedure Act (APA) is waived pursuant to 5 U.S.C. 553(d)(1), which provides a waiver when a substantive rule grants or recognizes an exception or relieves a restriction. The proposed rule would exempt certain transactions from the Title XI appraisal requirements. Consequently, the proposed rule meets the requirements for waiver set forth in the APA.

[33] A 1-to-4 family residential property is a property containing one, two, three, or four individual dwelling units, including manufactured homes permanently affixed to the underlying land (when deemed to be real property under state law). *See* OCC: 12 CFR part 34, subpart D, appendix A; Board: 12 CFR part 208, appendix C; FDIC: 12 CFR part 365, subpart A, appendix A.

[34] The second part of the definition is intended to clarify, not be an exception to, the first part.

[35] ''Initial construction'' refers to construction of a new dwelling, as opposed to improvements on an existing dwelling. This is intended to be consistent with the meaning of this phrase in provisions of TILA and its implementing regulation, Regulation Z. *See, e.g.,* 15 U.S.C. 1602(x); 12 CFR 1026.2(a)(24).

[36] The agencies propose to exclude consumer ''construction-to-permanent'' loans because these loans are, in effect, for the purchase of 1-to-4 family residential property, which would otherwise be subject to the $250,000 threshold. This carve-out for construction-to-permanent financing would avoid the anomaly of requiring appraisals for permanent financing of 1-to-4 family residential properties above $250,000 while allowing an evaluation for permanent financing (at or below $400,000) that is preceded by a construction phrase.

[37] *See https://www.ffiec.gov/pdf/FFIEC_forms/FFIEC031_201703_f.pdf.*

agency guidance on commercial real estate lending applies.[38] The agencies are treating construction-only loans to consumers as commercial real estate transactions to maintain consistency with other regulations and guidance that address construction loans to consumers in other contexts.

Supervisory experience indicates that financial institutions generally administer construction loans to consumers in a way similar to construction loans to businesses. Therefore, subjecting most construction loans to the same threshold would minimize regulatory burden. This treatment would also be consistent with other mortgage-related rules, which exempt consumer construction loans from various consumer protection requirements.[39] The agencies believe that promoting consistency in definitions and structure across different regulations can reduce confusion and regulatory burden for financial institutions.

Moreover, including all 1-to-4 family residential construction-only loans in the proposed definition of commercial real estate transactions is consistent with the agencies' longstanding practice under the Title XI appraisal regulations of treating construction loans for 1-to-4 family residential properties as ''nonresidential'' for purposes of the requirement that certified appraisers be used for ''nonresidential'' federally related transactions.[40]

As discussed further below, financial institutions report information about consumer construction loans aggregated with other construction loans through the Call Report.[41] Thus, much of the supervisory information that the agencies receive, including the basis for the analysis presented below, aggregates consumer construction loans with other construction loans secured by 1-to-4 residential properties.

Question 2. The agencies invite comment on the proposed definition of commercial real estate transaction.

Question 3. The proposed definition of commercial real estate transaction would include loans to consumers for the initial construction of their dwelling or transactions financing the construction of any building with 1-to-4 dwelling units, so long as the loan does not include permanent financing, with the effect of permitting these loans to qualify for the higher $400,000 threshold. The agencies invite comment on the consumer, regulatory burden, and other implications of the proposal. What would be the implications of not including these loans in the definition, which would leave the current $250,000 threshold in place?

Question 4. The agencies invite comment on the consumer, regulatory burden, and other implications of the proposed exclusion of construction-to-permanent loans from the definition of commercial real estate transaction, meaning that the current $250,000 threshold would apply. What would be the implications of including construction-to-permanent loans in the definition of commercial real estate transaction, thus allowing these loans to qualify for the higher $400,000 threshold?

Threshold Increase

The agencies propose to increase the threshold in the Title XI appraisal regulations for commercial real estate transactions from $250,000 to $400,000. In determining the level of increase, the agencies considered the change in prices for commercial real estate measured by the Federal Reserve Commercial Real Estate Price Index (''CRE Index''). The CRE Index[42] is a direct measure of the changes in commercial real estate prices in the United States.[43] The CRE Index is comprised of data from the CoStar Commercial Repeat Sale Index,[44] which uses repeat sale regression analysis of 1.7 million commercial property sales records to compare the change in price for the same property between its most recent and previous sale transactions.[45] The data incorporated into this index covers properties across the country and across all price ranges,[46] from before 1994 through the present.

Based on a review of the CRE Index, prices for commercial real estate have increased since 1994, resulting in an increased proportion of commercial real estate transactions exceeding the threshold level today compared to 1994. Based on the change in the CRE Index, a commercial property that sold for $250,000 as of June 30, 1994 would be expected to sell for approximately $830,000 as of December 2016. However, as shown below in Table 1, the price of commercial real estate can be particularly volatile. For example, the CRE Index indicates a commercial property that sold for $250,000 in 1994 would be expected to sell for approximately $412,000 in December 2003, $711,000 in December 2007, and $423,000 in March 2010, when commercial real estate prices were at their lowest point in the most recent downturn.

In proposing to raise the commercial real estate threshold to $400,000 the agencies are approximating prices at the low point of the most recent cycle, which occurred in 2010. This more conservative approach is appropriate because it takes into consideration the

[38] Real Estate Lending: Interagency Statement on Prudent Risk Management for Commercial Real Estate Lending, OCC Bulletin 2015–51 (December 18, 2015); Statement on Prudent Risk Management for Commercial Real Estate Lending, Board SR Letter 15–17 (December 18, 2015); Statement on Prudent Risk Management for CRE Lending, FDIC FIL–62–2015 (December 18, 2015); Guidance on Prudent Loan Workouts, OCC Bulletin 2009–32 (October 30, 2009); Policy Statement on Prudent Commercial Real Estate Loan Workouts, Board SR Letter 09–07 (October 30, 2009); Policy Statement on Prudent Commercial Real Estate Loan Workouts, FDIC FIL–61–2009 (October 30, 2009); Concentrations in Commercial Real Estate Lending, Sound Risk Management Practices, 71 FR 74580 (December 12, 2006).

[39] 78 FR 10368 (February 13, 2013) (exempting transactions to finance the initial construction of a dwelling from the higher-priced mortgage appraisal rule); 78 FR 4725 (January 22, 2013) (exempting transactions to finance the initial construction of a dwelling from the higher-priced mortgage escrow requirements); 78 FR 6408 (January 30, 2013) (exempting transactions to finance the initial construction of a dwelling from the ability-to-repay requirements); 78 FR 6856 (January 31, 2013) (exempting transactions to finance the initial construction of a dwelling from the high-cost mortgage loan term restrictions and disclosure requirements in the Home Ownership and Equity Protections Act); 76 FR 79772 (December 22, 2011) (exempting loans with maturity of 12 months or less for the construction primary dwelling from the balloon payment limitations).

[40] *See* OCC: 12 CFR 34.43(d); Board: 12 CFR 225.63(d)(2); FDIC: 12 CFR 323.3(d)(2). The agencies have long subjected such loans to this requirement, as opposed to permitting licensed appraisers, which is the case for typical 1-to-4 family residential properties.

[41] *See* series RCFD F158 and F159.

[42] The Board publishes data on the flow of funds and levels of financial assets and liabilities, by sector and financial instrument; full balance sheets, including net worth, for households and nonprofit organizations, nonfinancial corporate businesses, and nonfinancial noncorporate businesses; Integrated Macroeconomic Accounts; and additional supplemental detail. *See,* Board of Governors of the Federal Reserve System, Financial Accounts of the United States, *https://www.federalreserve.gov/releases/z1/current/default.htm.*

[43] The CRE Index is quarterly and not seasonally adjusted. *See* Board of Governors of the Federal Reserve System, Series analyzer for FL075035503.Q, *https://www.federalreserve.gov/apps/fof/SeriesAnalyzer.aspx?s=FL075035503&t=&bc=:FI075035503,FL075035503&suf=Q;* Board of Governors of the Federal Reserve System, Series Structure, *https://www.federalreserve.gov/apps/fof/SeriesStructure.aspx.*

[44] Board of Governors of the Federal Reserve System, Series analyzer for FL075035503.Q, *https://www.federalreserve.gov/apps/fof/SeriesAnalyzer.aspx?s=FL075035503&t=&bc=:FI075035503,FL075035503&suf=Q.* Data for years prior to 1996 are comprised of a weighted average of three appraisal-based commercial property series from National Real Estate Investor. *Id.*

[45] CoStar, *Federal Reserve's Flow of Funds to Incorporate CoStar Group's Price Indices,* CoStar (June 4, 2012), *http://www.costar.com/News/Article/Federal-Reserves-Flow-of-Funds-To-Incorporate-CoStar-Groups-Price-Indices/138998.*

[46] *See id.*

volatility in actual prices of commercial real estate over time.

This figure is also consistent with general measures of inflation across the economy since 1994, when the current threshold of $250,000 was set. The agencies considered general inflation indices, including the Consumer Price Index (CPI) [47] and the Personal Consumption Expenditures Price Index (PCE).[48] Certain price changes tracked by these general indices indirectly affect commercial real estate values. For example, the change in rents for multifamily housing affects the value of underlying properties, and the change in prices of consumer products affects the value of retail and warehouse space. While these indices are not directly based on changes in commercial real estate prices, general inflation is a component of the change in commercial real estate values.

As indicated in the table below, when adjusting a $250,000 basket of goods under the CPI and PCE from 1994 dollars to 2017 dollars and using a lowest point in the cycle adjustment for the prices for commercial real estate under the CRE Index, each of the indices considered approximately tracks the $400,000 proposed threshold.

TABLE 1—INFLATION ADJUSTMENTS OF $250,000 AT JUNE 30, 1994, FOR THE CRE INDEX; JULY 1994 FOR THE CPI INDEX AND JULY 1, 1994, FOR THE PCE INDEX

Index source:	Index series:	Dated adjusted to	Adjusted amount
CRE Index	Flow of Funds	December 2016	$830,674
		March 2010	423,659
		December 2007	711,367
		December 2003	412,194
CPI	All items, US	March 2017	401,166
PCE	All products	March 2017	373,706

Question 5. The agencies invite comment on the proposed level of $400,000 for the threshold at or below which regulated institutions would not be required to obtain appraisals for commercial real estate transactions.

Question 6. How would having three threshold levels ($250,000 for all transactions, $400,000 for commercial real estate transactions, and $1 million for qualifying business loans) rather than two threshold levels applicable to Title XI appraisals within the appraisal regulations affect burden to applicable institutions?

Safety and Soundness Considerations for Increasing the Threshold for Commercial Real Estate Transactions

Under Title XI, the agencies may set a threshold at or below which an appraisal performed by a state certified or licensed appraiser is not required if they determine in writing that such a threshold level does not pose a threat to the safety and soundness of financial institutions.[49] Analysis of supervisory experience and available data indicates that the proposed threshold level of $400,000 for commercial real estate transactions would not pose a threat to the safety and soundness of financial institutions.

Many variables, including changing market conditions and various loan underwriting practices, may affect an institution's loss experience. The $250,000 threshold has been applicable to commercial real estate transactions since 1994. Analysis of supervisory information concerning losses on commercial real estate transactions suggests that faulty valuations of the underlying real estate collateral have not been a material cause of losses in connection with transactions at or below $250,000. In the last three decades, the banking industry suffered two crises in which poorly underwritten and administered commercial real estate loans were a key feature in elevated levels of loan losses and bank failures.[50] Supervisory experience and a review of material loss reviews [51] covering those decades suggest that larger acquisition, construction, and development [52] transactions were more likely to be troublesome due to the lack of appropriate underwriting and administration of issues unique to larger properties, such as longer construction periods, extended ''lease up'' periods (the time required to lease a building after construction), and the more complex nature of the construction of such properties. The agencies have no evidence that increasing the appraisal threshold to $400,000 for commercial real estate transactions would materially increase the risk of loss on such transactions.

Coverage of the Threshold

The agencies' analysis of available data [53] related to commercial real estate lending at financial institutions suggests that an increase in the threshold would not pose a safety and soundness risk to financial institutions.

In order to consider the potential impact of the proposed threshold

[47] The CPI, which is published by the Bureau of Labor Statistics (BLS), is a measure of the average change over time in the prices paid by urban consumers for a market basket of goods and services. This series is published monthly and is not seasonally adjusted. *See* U.S. Dept. of Labor Statistics, *Consumer Price Index, https://www.bls.gov/cpi/.*

[48] The PCE, which is published by the Bureau of Economic Analysis within the U.S. Department of Commerce, is the broadest measure of the average change over time of the price of consumer goods and services. This series is published monthly and is seasonally adjusted. *See* U.S. Department of Commerce, Bureau of Economic Analysis, *Consumer Spending, https://www.bea.gov/national/consumer_spending.htm;* Federal Reserve Bank of San Francisco, *PCE Inflation Dispersion, http://www.frbsf.org/economic-research/indicators-data/pce-personal-consumption-expenditure-price-index-pcepi/.*

[49] 12 U.S.C. 3341(b).

[50] *See, e.g.,* FDIC, *History of the Eighties—Lessons for the Future, Chapter 3: Commercial Real Estate and the Banking Crises of the 1980s and Early 1990s,* available at *https://www.fdic.gov/bank/historical/history/137_165.pdf;* FDIC, Office of the Inspector General, EVAL–13–002, *Comprehensive Study on the Impact of the Failure of Insured Depository Institutions* 50, Table 6 (January 2013), available at *https://www.fdicig.gov/reports13/13-002EV.pdf.*

[51] Section 38(k) of the FDI Act, as amended, provides that if the Deposit Insurance Fund incurs a ''material loss'' with respect to an IDI, the Inspector General of the appropriate regulator (which for the OCC is the Inspector General of the Department of the Treasury) shall prepare a report to that agency, identifying the cause of failure and reviewing the agency's supervision of the institution. 12 U.S.C. 1831o(k).

[52] Acquisition, development and construction refers to transactions that finance construction projects including land, site development, and vertical construction. This type of financing is typically recorded in the land or construction categories of the Call Report.

[53] The agencies have examined data from a number of different sources to evaluate the impact of the proposed change in the appraisal threshold on the safety and soundness of financial institutions, as no single data source is sufficient alone to fully analyze the impact.

change on safety and soundness, the agencies considered how the coverage of transactions exempted by the threshold would change, both in terms of number of transactions and aggregate value. The agencies considered three different metrics to estimate the overall coverage of the existing threshold and the proposed threshold: The number of commercial real estate transactions at or under the threshold as a share of the number of all commercial real estate transactions; the dollar volume of commercial real estate transactions at or under the threshold as a share of the total dollar volume of all commercial real estate transactions; and the dollar volume of commercial real estate transactions at or under the threshold relative to IDIs' capital and the allowance for loan and lease losses, which act as a buffer to absorb losses, as explained below. The agencies examined data reported on the Call Report [54] and data from the CoStar Comps database to estimate the volume of commercial real estate transactions covered by the existing threshold and increased thresholds.

Analysis of Call Report Data

The agencies' analysis of data reported on the Call Report suggests that the threshold for commercial real estate transactions could be raised without exceeding the risk that these transactions posed when the thresholds were established in 1994.

All FDIC-insured depository institutions report information about loans on their balance sheets by category of loan,[55] but because IDIs do not report on loans in all of the categories that would be included in the definition of commercial real estate transaction by loan size, the agencies used loans secured by NFNR as a proxy for commercial real estate transactions in this analysis.[56] Data on NFNR loans are an effective proxy because the vast majority of commercial real estate transactions are in the NFNR category. NFNR loans should mirror trends across all categories of commercial real estate transactions.

IDIs report information on NFNR loans in the Call Report by three separate size categories: (1) Loans with original amounts of $100,000 or less; (2) loans with original amounts of more than $100,000, but $250,000 or less; and (3) loans with original amounts of more than $250,000, but $1,000,000 or less. They separately report the dollar amount of all NFNR loans, including those over $1,000,000. Using this data, the agencies calculated the dollar amount of NFNR loans at or under the current $250,000 threshold as a percentage of the dollar amount of all NFNR loans.

According to Call Report data, when the threshold for real-estate related financial transactions was raised from $100,000 to $250,000 in 1994, approximately 18 percent of the dollar volume of all NFNR loans reported by IDIs had original loan amounts of $250,000 or less. As of the fourth quarter of 2016, approximately 4 percent of the dollar volume of such loans had original loan amounts of $250,000 or less. This analysis suggests that a larger proportion of commercial real estate transactions now require appraisals than when the threshold was last raised.

In contemplating an increase in the threshold for commercial real estate transactions, the agencies also used Call Report data to consider the transactions exempted from the appraisal threshold as a share of equity capital plus the allowance for loan and lease losses (the allowance), which is a measure of the potential concentration risk that these transactions could pose to the financial well-being of institutions as a whole. In 1994, NFNR loans with original loan amounts of $250,000 or less represented in the aggregate approximately 14 percent of IDIs' equity capital plus the allowance. By the fourth quarter of 2016, such loans represented only about 3 percent of IDIs' equity capital plus the allowance.

To determine whether concentration risk would be similar for small institutions, the agencies separately considered the percentage of NFNR transactions exempted from the appraisal threshold as a share of equity capital plus the allowance for IDIs with assets of less than $1 billion. This analysis produced similar results. Approximately 30 percent of the dollar volume of all NFNR loans in such smaller institutions had original loan amounts of $250,000 or less in 1994. By the fourth quarter of 2016, however, only about 11 percent of the dollar volume of such loans had original loan amounts of $250,000 or less. In 1994, the dollar volume of smaller IDIs' NFNR loans with original loan amounts of $250,000 or less represented approximately 33 percent of equity capital plus the allowance. These loans represented only about 18 percent of IDIs' equity capital plus the allowance by the fourth quarter of 2016.

Because IDIs report loans on the Call Report aggregated into only the three categories mentioned above (less than $100,000, $100,000 to $250,000, and $250,000 to $1,000,000), the agencies cannot use Call Report data to determine the precise percentage or number of transactions that would be exempted by the proposed $400,000 threshold or the precise impact of a $400,000 threshold on equity capital plus the allowance.

Analysis of CoStar Comps Data

As described below, the agencies have used the CoStar Comps database to estimate this impact. The CoStar Comps database [57] provides sales value data on specific commercial real estate transactions. While there are some limitations regarding use of the CoStar Comps database, as detailed below, the database contains information on sales values for individual transactions, so it can be used to estimate the number and

[54] The agencies used data reported on Schedule RC–C and RC–C Part II of the Call Report. Schedule RC–C includes the dollar volume of all loans secured by real estate, reported in the five categories: (1) For construction, land development, and other land loans (RCFD F158 and F159); (2) secured by farmland (RCFD 1420); (3) secured by residential properties with five or more units (RCFD 1460); or (4) secured by nonfarm nonresidential properties (RCFD F160 and F161); and (5) secured by residential properties with fewer than five dwelling units (RCFD 1797, 5367, and 5368). As discussed earlier in this **SUPPLEMENTARY INFORMATION**, the fifth category would not be included in the definition of commercial real estate transaction. Schedule RC–C Part II, Loans to Small Businesses and Farms, includes the number and amount currently outstanding in each case reported in groupings by loan amount of loans secured by nonfarm, nonresidential real estate (NFNR), with original amounts of $1,000,000 or less and loans secured by farmland with original amounts of $500,000 or less. Institutions do not report information on the size of land and construction or multifamily loans. *See* FFIEC, *Consolidated Reports of Condition and Income for a Bank with Domestic and Foreign Offices—FFIEC 031, https://www.ffiec.gov/pdf/FFIEC_forms/FFIEC031_201703_f.pdf.*

[55] *See* FDIC, Bank Financial Reports, Consolidated Reports of Condition and Income, *https://www.fdic.gov/regulations/resources/call/index.html.* (''Every national bank, state member bank, insured state nonmember bank, and savings association ('institution') is required to file a Call Report as of the close of business on the last day of each calendar quarter, *i.e.,* the report date. The specific reporting requirements depend upon the size of the institution, the nature of its activities, and whether it has any foreign offices.'').

[56] Although farmland is reported by size of loan, such loans were also excluded from the analysis, because they comprise a very small percent of overall commercial real estate transactions and are unlikely to materially affect the analysis. Moreover, the majority of farmland loans are considered qualifying business loans and are eligible for the higher $1,000,000 threshold.

[57] The CoStar Comps database is comprised of sales data involving commercial real estate properties. The agencies have limited their analysis to arms-length completed sales, where the price is provided. The agencies have also limited the sample to properties that were financed. Owner-occupied properties and sales of coops and condominiums were excluded. The sample was also limited to existing buildings. Land includes only raw land defined as land held for development or held for investment.

percentage of transactions that would become exempt under the proposed threshold change (*i.e.,* those above $250,000, but less than $400,000).[58]

The CoStar Comps database contains data for transactions involving nonresidential commercial mortgages, multifamily and land. The CoStar Comps database is derived from sales data and reflects the total transaction amount, as opposed to the loan amount. For purposes of this analysis, the agencies included only financed transactions and assumed a loan-to-value ratio of 85 percent for nonresidential and multifamily commercial mortgages and a loan-to-value ratio of 65 percent for raw land transactions [59] to arrive at an estimated loan amount which would be equivalent to the ''transaction value'' under the Title XI appraisal regulations. While the CoStar Comps database has some limitations for the purposes of evaluating the proposed increase,[60] it provides information that can be used to estimate the dollar volume and number of commercial real estate transactions that would potentially be exempted by the proposed threshold increase.

An analysis of the CoStar Comps database suggests that increasing the threshold to $400,000 would significantly increase the number of commercial real estate transactions exempted from the Title XI appraisal requirements, but the portion of the total dollar size of commercial real estate transactions that would remain exempted by the threshold would be minimal. The percentage of commercial properties with loans in the CoStar Comps database that would be exempted from the Title XI appraisal regulations by the threshold would increase from 17 percent to 28 percent if the threshold were raised from $250,000 to $400,000. However, the total dollar volume of loans for commercial properties in the CoStar Comps database would only increase from 0.7 percent to 1.5 percent.

Exempting an additional 11 percent of commercial real estate transactions would provide burden relief as sought by some of the EGRPRA commenters. The 0.8 percentage point increase in the dollar volume of commercial real estate transactions that the CoStar data suggests would be exempted from the appraisal requirements under the proposed threshold is unlikely to expose financial institutions to increased safety and soundness risk.

Analysis of Charge-Off Rates

In addition to assessing changes in the magnitude of transactions covered by the appraisal threshold, the agencies assessed trends in the loss rate experience of commercial real estate transactions.

While the agencies do not regularly collect data on rates of loss for commercial real estate by the size of loans, they do collect net charge-off [61] data for commercial real estate loans on the Call Report. The agencies considered aggregate net charge-off rates for commercial real estate loans in determining whether the threshold would pose a threat to the safety and soundness of financial institutions.[62]

In order to evaluate the impact of commercial real estate lending on the safety and soundness of the banking system generally, the agencies compared peak net charge-off rates for two periods: 1991 to 1994 and 2007 to 2012. These periods represent two distress cycles when aggregate net charge-offs rose to their highest levels. The agencies separately examined charge-off rates on lending for all commercial real estate categories covering construction, multifamily, nonfarm, nonresidential, and farmland. In order to evaluate whether commercial real estate lending may have a disparate impact on the safety and soundness of IDIs of varying sizes, the agencies examined peak charge-off rates on loans for all IDIs, IDIs under one billion dollars in total assets, IDIs with total assets between one billion dollars and ten billion dollars, and IDIs with total assets of more than ten billion dollars.

The analysis showed that aggregate peak net charge-off rates for the most recent cycle were generally no worse than those recorded for the prior cycle, with the exception of construction loans. Moreover, aggregate commercial real estate loan loss rates for banks less than $1 billion (which would reasonably be expected to have a larger proportion of small loans, given their lower legal lending limits due to their smaller size) were lower than for larger banks as a group.

This data suggests that the loss experience associated with commercial real estate loans for the banking system as a whole has stayed at a relatively consistent rate through multiple credit cycles. Thus, banking system safety and soundness concerns associated with the commercial real estate loan loss rates have not increased. However, commercial real estate loan charge-off rates during periods of economic stress have and will continue to vary across individual IDIs based on location, collateral, quality of underwriting and risk management, and other factors. Thus commercial real estate loan concentration risk at individual institutions remains a focus for the banking agencies.

Question 7. The agencies invite comment on the safety and soundness impact of the proposed $400,000 threshold for commercial real estate transactions.

Question 8. The agencies invite comment on the data used in this analysis, and what alternative sources of data would be appropriate for this analysis.

B. Use of Evaluations

The Title XI appraisal regulations require regulated institutions to obtain evaluations for three categories of real estate-related financial transactions that the agencies have determined do not require a Title XI appraisal, including real-estate related financial transactions at or below the $250,000 threshold and qualifying business loans at or below the $1,000,000 threshold. Similarly, the agencies propose to require that institutions entering into commercial real estate transactions at or below the proposed $400,000 threshold obtain evaluations that are consistent with safe and sound banking practices for such transactions.[63]

An evaluation provides a general estimate of the value of real estate, but is not subject to the same requirements as a Title XI appraisal. An evaluation should provide appropriate information to enable the institution to make a prudent decision regarding the transaction. Through the Guidelines, the agencies have provided guidance to regulated institutions on their expectations regarding when and how evaluations should be used. The

[58] This same analysis could not be performed using Call Report data because, as described above, transactions reported for purposes of the Call Report are either reported in groupings of large value ranges or not reported by size at all.

[59] The Interagency Guidelines for Real Estate Lending provides that institutions' loan-to-value limits should not exceed 85 percent for loans secured by improved property and 65 percent for loans secured by raw land. *See* OCC: 12 CFR part 34, subpart D, appendix A; Board: 12 CFR part 208, appendix C; FDIC: 12 CFR part 365, subpart A, appendix A.

[60] For example, the database tends to underrepresent sales of smaller properties and transactions in rural markets, and includes transactions that are not financed by depository institutions.

[61] Net charge-offs are charge-offs minus recoveries.

[62] Net charge-offs represent losses to financial institutions, which, in the aggregate, can pose a threat to safety and soundness.

[63] When a below-threshold transaction also qualifies for an exemption from the appraisal requirements for a reason other than being below one of the thresholds or a qualifying existing extension of credit, no evaluation is required.

Guidelines describe the transactions for which financial institutions are required to obtain an evaluation, and recommend that institutions develop policies and procedures for identifying when to obtain appraisals for such transactions.

Institutions should conduct evaluations consistent with the provisions in the Guidelines.[64] As described in the Guidelines, evaluations should be performed by persons who are competent and have the relevant experience and knowledge of the market, location, and type of real property being valued.[65] Evaluations may be completed by a bank employee or by a third party, as explained by the Interagency Advisory on Use of Evaluations in Real Estate-Related Financial Transactions.[66] Guidance on achieving independence in the collateral valuation program can be found in the Guidelines, among other sources.[67] The Guidelines state that an evaluation should provide an estimate of the property's market value or sufficient information and analysis to support the credit decision. The Guidelines also describe the minimum content that an evaluation should contain.

In evaluating this proposal, the agencies considered the impact to the financial system of the proposal, and specifically the impact to financial institutions and borrowers of obtaining evaluations instead of Title XI appraisals. Based on information from industry participants, the cost of third-party evaluations of commercial real estate generally ranges from $500 to over $1,500, whereas the cost of appraisals of such properties generally ranges from $1,000 to over $3,000. Commercial real estate transactions with transaction values above $250,000 but at or below $400,000 (affected transactions), are likely to involve smaller and less complex properties, and appraisals and evaluations on such properties would likely be at the lower end of the cost range. This third-party pricing information suggests a savings of several hundred dollars per affected transaction.

The agencies also considered the costs in terms of time to obtain and process appraisals and evaluations. There may be less delay in finding appropriate personnel to perform an evaluation than to perform a Title XI appraisal, particularly in rural areas. As described in the Guidelines, financial institutions should review the property valuation prior to entering into the transaction. Financial institutions require less time to review evaluations than to review appraisals, because evaluations contain less detailed information. The agencies estimate that, on average, the review process for an appraisal would take approximately forty minutes and the review process for an evaluation would take approximately ten minutes. Thus, for affected transactions, the proposed rule would alleviate approximately thirty minutes of employee time per transaction, in addition to the reduced delay and the cost savings of obtaining an evaluation instead of an appraisal.

In considering the aggregate effect of this proposal, the agencies considered the number of affected transactions. As previously discussed, the agencies estimate that the number of commercial real estate transactions that would be exempted by the threshold is expected to increase by approximately 11 percent under the proposed rule. Thus, while the precise number of affected transactions and the precise cost reduction per transaction cannot be determined, the proposed rule is expected to lead to significant cost savings for institutions that engage in commercial real estate lending.

Question 9. The agencies invite comment on the proposed requirement that regulated institutions obtain evaluations for commercial real estate transactions at or below the $400,000 threshold.

Question 10. What type of additional guidance, if any, do institutions need to support the increased use of evaluations?

Question 11. To what extent does the use of evaluations reduce burden and cost over the use of appraisals? To what extent are evaluations currently done by in-house staff versus outsourced to appraisers or other qualified professionals?

C. State Certified Appraiser Required

The current Title XI appraisal regulations, require that ''[a]ll federally related transactions having a transaction value of $250,000 or more, other than those involving appraisals of 1-to-4 family residential properties, shall require an appraisal prepared by a State certified appraiser.'' [68] In order to make this paragraph consistent with the other proposed changes to the appraisal regulations, the agencies are proposing a change to its wording to introduce the $400,000 threshold and use the term ''commercial real estate transaction.'' The amendment to this provision would be a technical change that would not alter any substantive requirement.

III. Appraisal Threshold for Qualifying Business Loans

As noted above, in the 2017 EGRPRA Report to Congress, the agencies stated their intention to gather more information about the appropriateness of increasing the $1 million threshold for qualifying business loans. The agencies are not proposing an increase in the business loan threshold at this time, but the agencies invite comment on the following questions concerning the qualifying business loan exemption:

Question 12. The agencies invite comment and supporting data on the appropriateness of raising the current $1,000,000 threshold for qualifying business loans and the associated implications for safety and soundness.

Question 13. What unique risks do institutions associate with qualifying business loans?

Question 14. What percentage of total real estate lending at financial institutions, by number of loans and dollar volume of lending, are qualifying business loans?

Question 15. What is the average size of a qualifying business loan at financial institutions? What are the incidences of default on qualifying business loans compared to other commercial real estate transactions that institutions have observed over time?

Question 16. The agencies invite comment on the clarity of the application of the current threshold for qualifying business loans, and on any difficulty that financial institutions have experienced in interpreting the limitation on source of repayment.

IV. Request for Comments

The Agencies invite comment on all aspects of the proposed rulemaking.

Question 17. As discussed earlier, the agencies have articulated several bases for declining to propose an increase in the residential threshold. The agencies request comment on whether there are other factors that should be considered in evaluating the current appraisal threshold for 1-to-4 family residential properties.

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[64] Guidelines at 75 FR 77461.

[65] Interagency Appraisal and Evaluations Guidelines, 75 FR 77450, at 77458 (December 10, 2010).

[66] Interagency Advisory on Use of Evaluations in Real Estate-Related Financial Transactions, OCC Bulletin 2016–8 (March 4, 2016); Board SR Letter 16–05 (March 4, 2016); Supervisory Expectations for Evaluations, FDIC FIL–16–2016 (March 4, 2016).

[67] Guidelines at 75 FR 77457–58. *See also* Valuation Independence rules in Regulation Z, which apply to all creditors and cover extensions of consumer credit that are or will be secured by a consumer's principal dwelling: Board: 12 CFR 226.42; CFPB: 12 CFR 1026.42.

[68] OCC: 12 CFR 34.43(d); Board: 12 CFR 225.63(d)(2); FDIC: 12 CFR 323.3(d)(2).

V. Regulatory Analysis

A. Regulatory Flexibility Act

OCC: The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* generally requires that, in connection with a rulemaking, an agency prepare and make available for public comment a regulatory flexibility analysis that describes the impact of the rule on small entities. However, the regulatory flexibility analysis otherwise required under the RFA is not required if an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (defined in regulations promulgated by the Small Business Administration (SBA) to include commercial banks and savings institutions, and trust companies, with assets of $550 million or less and $38.5 million or less, respectively) and publishes its certification and a brief explanatory statement in the **Federal Register** together with the rule.

The OCC currently supervises approximately 956 small entities. Data currently available to the OCC are not sufficient to estimate how many OCC-supervised small entities make CRE loans in amounts that fall between the current and proposed thresholds. Therefore, we cannot estimate how many small entities may be affected by the increase threshold. However, because the proposal does not contain any new recordkeeping, reporting, or compliance requirements, the proposal will not impose costs on any OCC-supervised institutions. Accordingly, the OCC certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities.

Board: The RFA,[69] requires an agency either to provide an initial regulatory flexibility analysis with a proposed rule or certify that the proposed rule will not have a significant economic impact on a substantial number of small entities. The proposed threshold increase applies to certain IDIs and non-bank entities that make loans secured by commercial real estate.[70] The SBA establishes size standards that define which entities are small businesses for purposes of the RFA.[71] The size standard to be considered a small business is: $550 million or less in assets for banks and other depository institutions; and $38.5 million or less in annual revenues for the majority of non-bank entities that are likely to be subject to the proposed regulation.[72] Based on the Board's analysis, and for the reasons stated below, the proposed rule may have a significant positive economic impact on a substantial number of small entities. Accordingly, the Board is publishing an initial regulatory flexibility analysis. The Board will conduct a final regulatory flexibility analysis after consideration of comments received during the public comment period.

The Board requests public comment on all aspects of this analysis.

1. Reasons for the Proposed Rule

In response to comments received in the EGRPRA process, the agencies are proposing to increase the threshold from $250,000 to $400,000 at or below which a Title XI appraisal is not required for commercial real estate transactions. Because commercial real estate prices have increased since 1994, when the current $250,000 threshold was established, a smaller percentage of commercial real estate transactions are currently exempted from the Title XI appraisal requirements than when the threshold was established. This threshold adjustment is intended to reduce the regulatory burden associated with extending credit secured by commercial real estate in a manner that is consistent with the safety and soundness of financial institutions.

2. Statement of Objectives and Legal Basis

As discussed above, the agencies' objective in proposing this threshold increase is to reduce the regulatory burden associated with extending credit in a safe and sound manner by reducing the number of commercial real estate transactions that are subject to the Title XI appraisal requirements.

Title XI explicitly authorizes the agencies to establish a threshold level at or below which a Title XI appraisal is not required if the agencies determine in writing that the threshold does not represent a threat to the safety and soundness of financial institutions and receive concurrence from the CFPB that such threshold level provides reasonable protection for consumers who purchase 1-to-4 unit single-family homes.[73] Based on available data and supervisory experience, the agencies tailored the size and scope of the proposed threshold increase to ensure that it would not pose a threat to the safety and soundness of financial institutions or erode protections for consumers who purchase 1-to-4 unit single-family homes.

The Board's proposed rule would apply to state chartered banks that are members of the Federal Reserve System (state member banks), as well as bank holding companies and nonbank subsidiaries of bank holding companies that engage in lending. There are approximately 601 state member banks and 35 nonbank lenders regulated by the Board that meet the SBA definition of small entities and would be subject to the proposed rule. Data currently available to the Board do not allow for a precise estimate of the number of small entities that would be affected by the proposed rule because the number of small entities that will engage in commercial real estate transactions within the proposed threshold is unknown.

3. Projected Reporting, Recordkeeping and Other Compliance Requirements

The proposed rule would reduce reporting, recordkeeping, and other compliance requirements for small entities. For transactions at or below the proposed threshold, regulated institutions would be given the option to obtain an evaluation of the property instead of an appraisal. Unlike appraisals, evaluations may be performed by a lender's own employees and are not required to comply with USPAP. As discussed in detail in Section II.B of the **SUPPLEMENTARY INFORMATION**, the cost of obtaining appraisals and evaluations can vary widely depending on the size and complexity of the property, the party performing the valuation, and market conditions where the property is located. Additionally, the costs of obtaining appraisals and evaluations may be passed on to borrowers. Because of this variation in cost and practice, it is not possible to precisely determine the cost savings that regulated institutions will experience due to the decreased cost of obtaining an evaluation rather than an appraisal. However, based on information available to the Board, it is likely that small entities and borrowers engaging in commercial real estate transactions could experience significant cost reductions.

In addition to costing less to obtain than appraisals, evaluations also require less time to review than appraisals because they contain less detailed information. As discussed further in Section II.B of the **SUPPLEMENTARY**

[69] 5 U.S.C. 601 *et seq.*

[70] For its RFA analysis, the Board considered all Board-regulated creditors to which the proposed rule would apply.

[71] U.S. SBA, Table of Small Business Size Standards Matched to North American Industry Classification System Codes, available at *https://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf.*

[72] Asset size and annual revenues are calculated according to SBA regulations. *See* 13 CFR 121 *et seq.*

[73] 12 U.S.C. 3341(b).

INFORMATION, an appraisal takes approximately forty minutes to review and an evaluation takes approximately ten minutes to review. Thus, the proposed rule would alleviate approximately thirty minutes of employee time per affected transaction for which the lender obtains an evaluation instead of an appraisal.

As previously discussed, the Board estimates that the percentage of commercial real estate transactions that would be exempted by the threshold is expected to increase by approximately 11 percent under the proposed rule. The Board expects this percentage to be higher for small entities, because a higher percentage of their loan portfolios are likely to be made up of small, below-threshold loans than those of larger entities. Thus, while the precise number of transactions that will be affected and the precise cost reduction per transaction cannot be determined, the proposed rule is expected to have a significant positive economic impact on small entities that engage in commercial real estate lending.

4. Identification of Duplicative, Overlapping, or Conflicting Federal Regulations

The Board has not identified any federal statutes or regulations that would duplicate, overlap, or conflict with the proposed revisions.

5. Discussion of Significant Alternatives

The agencies considered additional burden-reducing measures, such as increasing the commercial threshold to a higher dollar amount and increasing the residential and business loan thresholds, but have not proposed such measures at this time for the safety and soundness and consumer protection reasons previously discussed. For transactions exempted from the Title XI appraisal requirements, the proposed rule would require regulated institutions to get an evaluation if they do not get an appraisal. The agencies believe this requirement is necessary to protect the safety and soundness of financial institutions, which is a legal prerequisite to the establishment of any threshold. The Board is not aware of any other significant alternatives that would reduce burden on small entities without sacrificing the safety and soundness of financial institutions or consumer protections.

FDIC: The RFA generally requires that, in connection with a notice of proposed rulemaking, an agency prepare and make available for public comment an initial regulatory flexibility analysis describing the impact of the proposed rule on small entities.[74] A regulatory flexibility analysis is not required, however, if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The SBA has defined ''small entities'' to include banking organizations with total assets less than or equal to $550 million.[75] For the reasons described below and pursuant to section 605(b) of the RFA, the FDIC certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

The FDIC supervises 3,744 depository institutions,[76] of which, 3,028 are defined as small banking entities by the terms of the RFA.[77] According to the Call Report, 3,010 small entities reported holding some volume of real estate related financial transactions that meet the proposed rule's definition of a commercial real estate transaction.[78] Therefore, 3,010 small entities could be affected by the proposed rule.

The proposed rule will raise the appraisal threshold for commercial real estate transactions from $250,000 to $400,000. Any commercial real estate transaction with a value in excess of the $400,000 threshold is required to have an appraisal by a state licensed or state certified appraiser. Any commercial real estate transaction at or below the $400,000 threshold requires an evaluation.

To estimate the dollar volume of commercial real estate transactions the proposed change could potentially affect, the FDIC used information on the dollar volume and number of loans in the Call Report for small institutions from two categories of loans included in the definition of a commercial real estate transaction. The Call Report data reflect that 4.55 percent of the dollar volume of nonfarm, nonresidential loans secured by real estate has an original loan amount between $1 and $250,000, while 11.81 percent have an original loan amount between $250,000 and $1,000,000. The Call Report data also reflects that 8.85 percent of the dollar volume of agricultural loans secured by farmland has an original loan amount between $1 and $250,000, while 7.49 percent have an original loan amount between $250,000 and $500,000.[79] Assuming that the original amount of nonfarm, nonresidential loans secured by real estate and the original amount of agricultural loans secured by farmland are normally distributed, the FDIC estimates that between 6.08 percent and 12.95 percent of loan volume is at or below the $400,000 threshold for these categories, respectively.

Therefore, raising the appraisal threshold from $250,000 to $400,000 for commercial real estate transactions could affect an estimated 1.53 percent to 4.10 percent of the dollar volume of all commercial real estate transactions originated each year. This estimate assumes that the distribution of loans for the other loan categories within the proposed definition of commercial real estate transactions is similar to those loans secured by nonfarm, nonresidential properties or farmland.

The proposed rule is likely to reduce valuation review costs for covered institutions. The FDIC estimates that it takes a loan officer an average of 40 minutes to review an appraisal to ensure that it meets that standards set forth in Title XI, but 10 minutes to perform a similar review of an evaluation, which does not need to meet the Title XI standards for appraisals. The proposed rule increases the number of commercial real estate transactions that would require an evaluation by raising the appraisal threshold from $250,000 to $400,000. Assuming that 15 percent of the outstanding balance of commercial real estate transactions for small entities gets renewed or replaced by new originations each year, the FDIC estimates that small entities originate $31.9 billion in new commercial real estate transactions each year. Assuming that 1.53 percent to 4.10 percent of annual originations represent loans with an origination amount greater than $250,000 but not more than $400,000, the FDIC estimates that the proposed rule will affect approximately 1,504 to 4,040 loans per year,[80] or 0.5 percent to 1.33 percent of loans on average for small FDIC-supervised institutions.

[74] 5 U.S.C. 601 *et seq.*

[75] 13 CFR 121.201 (as amended, effective December 2, 2014).

[76] FDIC-supervised institutions are set forth in 12 U.S.C. 1813(q)(2).

[77] FDIC Call Report, March 31, 2017.

[78] The proposed definition of ''Commercial Real Estate Transaction'' would largely capture the following four categories of loans secured by real estate in the Call Report (FFIEC 031; RCFD 1410), namely loans that are: (1) For construction, land development, and other land loans; (2) secured by farmland; (3) secured by residential properties with five or more units; or (4) secured by nonfarm nonresidential properties. However, loans that provide both initial construction funding and permanent financing and are reported as construction, land development, and other land loans during the construction phase would be excluded from the definition.

[79] FDIC Call Report data, March 31, 2017.

[80] Multiplying $31.9 billion by 1.53 percent then dividing the product by an average loan amount of $325,000 equals 1,504 loans and multiplying $31.9 billion by 4.10 percent then dividing the product by an average loan amount of $325,000 equals 4,040 loans.

Therefore, based on an estimated hourly rate, the proposed rule would reduce loan review costs for small entities by $51,625 to $138,673, on average, each year.[81] If lenders opt to not utilize an evaluation and require an appraisal on commercial real estate transaction greater than $250,000 but not more than $400,000 any reduction in costs would be smaller.

Any associated recordkeeping costs are unlikely to change for small FDIC-supervised entities as the amount of labor required to satisfy documentation requirements for an evaluation or an appraisal is estimated to be the same at about five minutes for either an appraisal or evaluation.

The proposed rule also is likely to reduce the loan origination costs associated with real estate appraisals for commercial real estate borrowers. The FDIC assumes that these costs are always paid by the borrower for this analysis. Anecdotal information from industry participants indicates that a commercial real estate appraisal costs between $1,000 to over $3,000, or about $2,000 on average, and a commercial real estate evaluation costs between $500 to over $1,500, or about $1,000 on average. Based on the prior assumptions, the FDIC estimates that the proposed rule will affect approximately 1,504 to 4,040 transactions per year,[82] or 0.5 percent to 1.33 percent of loans on average for small FDIC-supervised institutions. Therefore, the proposed rule could reduce loan origination costs for borrowers doing business with small entities by $1.5 to $4.0 million on average per year.[83]

By lowering valuation costs on commercial real estate transactions greater than $250,000 but less than or equal to $400,000 for small FDIC-supervised institutions, the proposed rule could marginally increase lending activity. As discussed previously, commenters in the EGRPRA review noted that appraisals can be costly and time consuming. By enabling small FDIC-supervised institutions to utilize evaluations for more commercial real estate transactions, the proposed rule will reduce transaction costs. The reduction in loan origination fees could marginally increase commercial real estate lending activity for loans with an origination value greater than $250,000 and not more than $400,000.

B. Paperwork Reduction Act

Certain provisions of the proposed rule contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act (PRA) of 1995.[84] In accordance with the requirements of the PRA, the agencies may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently-valid Office of Management and Budget (OMB) control number. The OMB control number for the OCC is 1557–0190, the Board is 7100–0250, and the FDIC is 3064–0103, which would be extended, without revision. The agencies have concluded that the proposed rule does not contain any changes to the current information collections, however, the agencies are revising the methodology for calculating the burden estimates. The information collection requirements contained in this proposed rulemaking have been submitted by the OCC and FDIC to OMB for review and approval under section 3507(d) of the PRA [85] and section 1320.11 of the OMB's implementing regulations.[86] The Board reviewed the proposed rule under the authority delegated to the Board by OMB.

Proposed Information Collection

Title of Information Collection: Recordkeeping Requirements Associated with Real Estate Appraisals and Evaluations.

Frequency of Response: Event generated.

Affected Public: Businesses or other for-profit.

Respondents:

OCC: National banks, Federal savings associations.

Board: State member banks (SMBs) and nonbank subsidiaries of bank holding companies (BHCs).

FDIC: Insured state nonmember banks and state savings associations, insured state branches of foreign banks.

General Description of Report: For federally related transactions, Title XI requires regulated institutions [87] to obtain appraisals prepared in accordance with USPAP promulgated by the Appraisal Standards Board of the Appraisal Foundation. Generally, these standards include the methods and techniques used to estimate the market value of a property as well as the requirements for reporting such analysis and a market value conclusion in the appraisal. Regulated institutions are expected to maintain records that demonstrate that appraisals used in their real estate-related lending activities comply with these regulatory requirements. For commercial real estate transactions exempted from the Title XI appraisal requirements by the proposed rule, regulated institutions would still be required to obtain an evaluation to justify the transaction amount. The agencies estimate that the recordkeeping burden associated with evaluations would be the same as the recordkeeping burden associated with appraisals for such transactions.

Current Action: The threshold change in the proposed rule will result in lenders being able to use evaluations instead of appraisals for certain transactions. It is estimated that the time required to document the review of an appraisal or an evaluation is the same. While the rulemaking described in this proposed rule would not change the amount of time that institutions spend complying with the Title XI appraisal regulation, the agencies are using a more accurate methodology for calculating the burden of the information collections based on the experience of the agencies. Thus, the PRA burden estimates shown here are different from those previously reported. The agencies are (1) using the average number of loans per institution as the frequency and (2) using 5 minutes as the estimated time per response for the appraisals or evaluations.

PRA Burden Estimates

Estimated average time per response: 5 minutes.

OCC

Number of Respondents: 1,284.
Annual Frequency: 1,488.
Total Estimated Annual Burden: 159,216 hours.

[81] The FDIC estimates that the average hourly compensation for a loan officer is $68.65 an hour. The hourly compensation estimate is based on published compensation rates for Credit Counselors and Loan Officers ($43.40). The estimate includes the March 2017 75th percentile hourly wage rate reported by the BLS, National Industry-Specific Occupational Employment and Wage Estimates. The reported hourly wage rate is adjusted for changes in the CPI–U between May 2016 and March 2017 (1.83 percent) and grossed up by 155.3 percent to account for non-monetary compensation as reported by the March 2017 Employer Costs for Employee Compensation Data. Based on this estimate, loan review costs would decline between $51,625 (1,504 loans multiplied by 30 minutes and multiplied by $68.65 per hour) and $138,673 (4,040 loans multiplied by 30 minutes and multiplied by $68.65 per hour).

[82] Multiplying $31.9 billion by 1.53 percent then dividing the product by an average loan amount of $325,000 equals 1,504 loans and multiplying $31.9 billion by 4.10 percent then dividing the product by an average loan amount of $325,000 equals 4,040 loans.

[83] Multiplying 1,504 loans by $1,000 savings equals $1.5 million and multiplying 4,040 loans by $1,000 savings equals $4.0 million.

[84] 44 U.S.C. 3501–3521.

[85] 44 U.S.C. 3507(d).

[86] 5 CFR 1320.

[87] National banks, federal savings associations, SMBs and nonbank subsidiaries of BHCs, insured state nonmember banks and state savings associations, and insured state branches of foreign banks.

Board

Number of Respondents: 828 SMBs; 1,215 nonbank subsidiaries of BHCs.

Annual Frequency: 419; 25.

Total Estimated Annual Burden: 28,911 hours; 2,531 hours.

FDIC

Number of Respondents: 3,744.

Annual Frequency: 141.

Total Estimated Annual Burden: 43,992 hours.

Comments are invited on:

(a) Whether the collections of information are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

(b) The accuracy of the estimates of the burden of the information collections, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the information collections 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.

All comments will become a matter of public record. Comments on aspects of this notice that may affect reporting, recordkeeping, or disclosure requirements and burden estimates should be sent to the addresses listed in the **ADDRESSES** section of this document. A copy of the comments may also be submitted to the OMB desk officer for the agencies: by mail to U.S. Office of Management and Budget, 725 17th Street NW., #10235, Washington, DC 20503; by facsimile to (202) 395–5806; or by email to: *oira_submission@omb.eop.gov,* Attention, Federal Banking Agency Desk Officer.

C. Riegle Act

The Riegle Act requires that each of the agencies, in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on IDIs, consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations.[88] In addition, in order to provide an adequate transition period, new regulations that impose additional reporting, disclosures, or other new requirements on IDIs generally must take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form.[89]

The proposed rule would reduce burden and would not impose any reporting, disclosure, or other new requirements on IDIs. For transactions exempted from the Title XI appraisal requirements by the proposed rule (*i.e.,* commercial real estate transactions between $250,000 and $400,000), lenders would be required to get an evaluation if they chose not to get an appraisal. However, the agencies do not view the option to obtain an evaluation instead of an appraisal as a new or additional requirement for purposes of the Riegle Act. First, the process of obtaining an evaluation is not new since IDIs already get evaluations for transactions at or below the current $250,000-threshold. Second, for commercial real estate transactions between $250,000 and $400,000, IDIs could continue to get appraisals instead of evaluations. Because the proposed rule would impose no new requirements on IDIs, the agencies are not required by the Riegle Act to consider the administrative burdens and benefits of the rule or delay its effective date.

Because delaying the effective date of the rule is not required and would serve no purpose, the agencies propose to make the threshold increase effective on the first day after publication of the final rule in the **Federal Register**. Additionally, although not required by the Riegle Act, the agencies did consider the administrative costs and benefits of the rule while developing the proposal. In designing the scope of the threshold increase, the agencies chose to align the definition of commercial real estate transaction with industry practice, regulatory guidance, and the categories used in the Call Report in order to reduce the administrative burden of determining which transactions were exempted by the rule. The agencies also considered the cost savings that IDIs would experience by obtaining evaluations instead of appraisals and set the proposed threshold at a level designed to provide significant burden relief without sacrificing safety and soundness. The agencies note that comment on these matters has been solicited in questions 2 through 14 in Section II, and in the RFA discussion in Section IV, of the **SUPPLEMENTARY INFORMATION**, and that the requirements of the Riegle Act will be considered as part of the overall rulemaking process. In addition, the agencies invite any other comments that further will inform the agencies' consideration of the Riegle Act.

D. Solicitation of Comments on Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act[90] requires the agencies to use plain language in all proposed and final rules published after January 1, 2000. Agencies invite comment on how to make these proposed rules easier to understand. For example:

- Have the agencies organized the material to suit your needs? If not, how could this material be better organized?
- Are the requirements in the proposed rules clearly stated? If not, how could the proposed rules be stated more clearly?
- Do the proposed rules contain language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the proposed rules easier to understand? If so, what changes to the format would make the proposed rules easier to understand?
- What else could the agencies do to make the regulation easier to understand?

E. Unfunded Mandates Act

OCC Unfunded Mandates Reform Act of 1995 Determination

The OCC has analyzed the proposed rule under the factors in the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532). Under this analysis, the OCC considered whether the proposed rule includes a federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (adjusted annually for inflation).

The proposed rule does not impose new requirements or include new mandates. Therefore, we conclude that the proposed rule will not result in an expenditure of $100 million or more by state, local, and tribal governments, or by the private sector, in any one year.

List of Subjects

12 CFR Part 34

Appraisal, Appraiser, Banks, Banking, Consumer protection, Credit, Mortgages,

[88] 12 U.S.C. 4802(a).

[89] 12 U.S.C. 4802(b).

[90] Pub. L. 106–102, section 722, 113 Stat. 1338 1471 (1999).

National banks, Reporting and recordkeeping requirements, Savings associations, Truth in lending.

12 CFR Part 225

Administrative practice and procedure, Banks, banking, Federal Reserve System, Capital planning, Holding companies, Reporting and recordkeeping requirements, Securities, Stress testing

12 CFR Part 323

Banks, banking, Mortgages, Reporting and recordkeeping requirements, Savings associations.

Office of the Comptroller of the Currency, 12 CFR Part 34

For the reasons set forth in the joint preamble, the OCC proposes to amend part 34 of chapter I of title 12 of the Code of Federal Regulations as follows:

PART 34—REAL ESTATE LENDING AND APPRISALS

■ 1. The authority citation for part 34 continues to read as follows:

Authority: 12 U.S.C. 1, 25b, 29, 93a, 371, 1462a, 1463, 1464, 1465, 1701j–3, 1828(o), 3331 *et seq.,* 5101 *et seq.,* and 5412(b)(2)(B), and 15 U.S.C. 1639h.

■ 2. Section 34.42 is amended by redesignating paragraphs (e) through (m) as paragraphs (f) through (n), respectively, and by adding a new paragraph (e) to read as follows:

§ 34.42 Definitions.

* * * * *

(e) *Commercial real estate transaction* means a real estate-related financial transaction that is not secured by a 1-to-4 family residential property. A real estate-related financial transaction to finance the initial construction of a 1-to-4 family residential property that does not include permanent financing is a commercial real estate transaction.

* * * * *

■ 3. Section 34.43 is amended by:
■ a. Removing the word ''or'' at the end of paragraph (a)(11);
■ b. Revising paragraph (a)(12);
■ c. Adding paragraph (a)(13); and
■ d. Revising paragraphs (b) and (d)(2).

The revisions and addition read as follows:

§ 34.43 Appraisals required; transactions requiring a State certified or licensed appraiser.

(a) * * *

(12) The OCC determines that the services of an appraiser are not necessary in order to protect Federal financial and public policy interests in real estate-related financial transactions or to protect the safety and soundness of the institution; or

(13) The transaction is a commercial real estate transaction that has a transaction value of $400,000 or less.

(b) *Evaluations required.* For a transaction that does not require the services of a State certified or licensed appraiser under paragraph (a)(1), (a)(5), (a)(7), or (a)(13) of this section, the institution shall obtain an appropriate evaluation of real property collateral that is consistent with safe and sound banking practices.

* * * * *

(d) * * *

(2) *Commercial real estate transactions of more than $400,000.* All federally related transactions that are commercial real estate transactions having a transaction value of more than $400,000 shall require an appraisal prepared by a State certified appraiser.

* * * * *

Federal Reserve Board, 12 CFR Part 225

For the reasons set forth in the joint preamble, the Board amends part 225 of chapter II of title 12 of the Code of Federal Regulations as follows:

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

■ 4. The authority citation for part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1828(o), 1831i, 1831p–1, 1843(c)(8), 1844(b), 1972(l), 3106, 3108, 3310, 3331–3351, 3906, 3907, and 3909; 15 U.S.C. 1681s, 1681w, 6801 and 6805.

■ 5. Section 225.62 is amended by redesignating paragraphs (e) through (m) as paragraphs (f) through (n), respectively, and by adding a new paragraph (e) to read as follows:

§ 225.62 Definitions.

* * * * *

(e) *Commercial real estate transaction* means a real estate-related financial transaction that is not secured by a 1-to-4 family residential property. A real estate-related financial transaction to finance the initial construction of a 1-to-4 family residential property that does not include permanent financing is a commercial real estate transaction.

* * * * *

■ 6. Section 225.63 is amended by:
■ a. Removing the word ''or'' at the end of paragraph (a)(12);
■ b. Revising paragraph (a)(13);
■ c. Adding paragraph (a)(14);
■ d. Revising paragraph (b); and
■ e. Revising paragraph (d)(2).

The revisions and addition read as follows:

§ 225.63 Appraisals required; transactions requiring a State certified or licensed appraiser.

(a) * * *

(13) The Board determines that the services of an appraiser are not necessary in order to protect Federal financial and public policy interests in real estate-related financial transactions or to protect the safety and soundness of the institution; or

(14) The transaction is a commercial real estate transaction that has a transaction value of $400,000 or less.

(b) *Evaluations required.* For a transaction that does not require the services of a State certified or licensed appraiser under paragraph (a)(1), (a)(5), (a)(7), or (a)(14) of this section, the institution shall obtain an appropriate evaluation of real property collateral that is consistent with safe and sound banking practices.

* * * * *

(d) * * *

(2) Commercial real estate transactions of more than $400,000. All federally related transactions that are commercial real estate transactions having a transaction value of more than $400,000 shall require an appraisal prepared by a State certified appraiser.

* * * * *

Federal Deposit Insurance Corporation, 12 CFR Part 323

For the reasons set forth in the joint preamble, the FDIC amends part 323 of chapter III of title 12 of the Code of Federal Regulations as follows:

PART 323—APPRAISALS

■ 7. Revise the authority citation for part 323 to read as follows:

Authority: 12 U.S.C. 1818, 1819 [''Seventh'' and ''Tenth''], 1831p–1 and 3331 *et seq.*

■ 8. Revise the authority citation for subpart A of part 323 to read as follows:

Authority: This subpart is issued under 12 U.S.C. 1818, 1819 [''Seventh'' and ''Tenth''], 1831p–1 and title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (''FIRREA'') (Pub. L. 101–73, 103 Stat. 183, 12 U.S.C. 3331 *et seq.* (1989)).

■ 9. Section 323.2 is amended by redesignating paragraphs (e) through (m) as paragraphs (f) through (n), respectively, and by adding a new paragraph (e) to read as follows:

§ 323.2 Definitions.

* * * * *

(e) *Commercial real estate transaction* means a real estate-related financial transaction that is not secured by a 1-to-4 family residential property. A real

estate-related financial transaction to finance the initial construction of a 1-to-4 family residential property that does not include permanent financing is a commercial real estate transaction.

* * * * *

■ 4. Section 323.3 is amended by:

■ a. Removing the word ''or'' at the end of paragraph (a)(11);

■ b. Revising paragraph (a)(12);

■ c. Adding paragraph (a)(13);

■ d. Revising paragraph (b); and

■ e. Revising paragraph (d)(2).

The revisions and addition read as follows:

§ 323.3 Appraisals required; transactions requiring a State certified or licensed appraiser.

(a) * * *

(12) The FDIC determines that the services of an appraiser are not necessary in order to protect Federal financial and public policy interests in real estate-related financial transactions or to protect the safety and soundness of the institution; or

(13) The transaction is a commercial real estate transaction that has a transaction value of $400,000 or less.

(b) *Evaluations required.* For a transaction that does not require the services of a State certified or licensed appraiser under paragraph (a)(1), (a)(5), (a)(7), or (a)(13) of this section, the institution shall obtain an appropriate evaluation of real property collateral that is consistent with safe and sound banking practices.

* * * * *

(d) * * *

(2) *Commercial real estate transactions of more than $400,000.* All federally related transactions that are commercial real estate transactions having a transaction value of more than $400,000 shall require an appraisal prepared by a State certified appraiser.

* * * * *

Dated: July 18, 2017.

Keith A. Noreika,

Acting Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, July 18, 2017.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

Dated at Washington, DC, this 18th of July, 2017.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–15748 Filed 7–28–17; 8:45 am]

BILLING CODE P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

RIN 3133–AE76

Emergency Mergers—Chartering and Field of Membership

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: The NCUA Board (Board) proposes to amend in its Chartering and Field of Membership Manual the definition of the term ''in danger of insolvency'' for emergency merger purposes. The current definition requires a credit union to fall into at least one of three net worth categories over a period of time to be ''in danger of insolvency.'' For two of the three categories, the Board proposes to lengthen by six months the forecast horizons, the time period in which NCUA projects a credit union's net worth will decline to the point that it falls into one of the categories. This will extend the time period in which a credit union's net worth is projected to either render it insolvent or drop below two percent from 24 to 30 months and from 12 to 18 months, respectively. Additionally, the Board proposes to add a fourth category to the three existing net worth categories to include credit unions that have been granted or received assistance under section 208 of the Federal Credit Union Act (FCU Act) in the 15 months prior to the Region's determination that the credit union is in danger of insolvency.

DATES: Comments must be received on or before September 29, 2017.

ADDRESSES: You may submit comments by any of the following methods (Please send comments by one method only):

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *NCUA Web site: https://www.ncua.gov/regulation-supervision/Pages/rules/proposed.aspx.* Follow the instructions for submitting comments.
- *Email:* Address to *regcomments@ncua.gov.* Include ''[Your name] Comments on Proposed Rule 701, In Danger of Insolvency Definition'' in the email subject line.
- *Fax:* (703) 518–6319. Use the subject line described above for email.
- *Mail:* Address to Gerard S. Poliquin, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand Delivery/Courier:* Same as mail address.

Public inspection: You may view all public comments on NCUA's Web site at *https://www.ncua.gov/regulation-supervision/Pages/rules/proposed.aspx* as submitted, except for those we cannot post for technical reasons. NCUA will not edit or remove any identifying or contact information from the public comments submitted. You may inspect paper copies of comments in NCUA's law library at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9 a.m. and 3 p.m. To make an appointment, call (703) 518–6546 or send an email to *OGCMail@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Thomas I. Zells, Staff Attorney, Office of General Counsel, or Amanda Parkhill, Loss/Risk Analysis Officer, Office of Examination and Insurance, at 1775 Duke Street, Alexandria, VA 22314 or telephone: (703) 548–2478 (Mr. Zells) or (703) 518–6385 (Ms. Parkhill).

SUPPLEMENTARY INFORMATION:

I. Background

Credit unions that experience a sharp decline in net worth have a much higher likelihood of failing. From the second quarter of 1996 through the second quarter of 2016, there were 11,734 federally insured credit unions. As shown by the table below, 2,502 of these credit unions fell below the well-capitalized threshold (7 percent net worth ratio) after having a net worth ratio above that threshold for at least one quarter. The net worth ratio of 490 of these 2,502 credit unions eventually fell below two percent. Importantly, only 15 percent of those credit unions whose net worth dropped below two percent sometime in this period remain active.

TABLE 1—CREDIT UNIONS FALLING BELOW CRITICAL NET WORTH RATIO THRESHOLDS

Net worth ratio fell:	Number of CUs	Active	Active (%)
Below 7%	2,502	1,104	44
Below 6%	1,563	475	30
Below 5%	1,126	254	23
Below 4%	825	151	18
Below 3%	647	102	16
Below 2%	490	73	15

Credit union failures are costly to the entire credit union system through their effect on the National Credit Union Share Insurance Fund (NCUSIF). NCUA, as a prudential safety and soundness regulator, is charged with protecting the safety and soundness of the credit union system and, in turn, the NCUSIF and the taxpayer through regulation and supervision.[1] One way to mitigate some of the cost to the NCUSIF and minimize disruption to credit union members is to find appropriate merger partners for at-risk credit unions.

Under the emergency merger provision of section 205(h) of the FCU Act, the Board may allow a credit union that is either insolvent or in danger of insolvency to merge with another credit union if the Board finds that: (1) An emergency requiring expeditious action exists; (2) no other reasonable alternatives are available; and (3) the action is in the public interest.[2] Under these circumstances, the Board may approve an emergency merger without regard to common bond or other legal constraints, such as obtaining the approval of the members of the merging credit union. The emergency merger statute addresses exigent circumstances and is intended to serve the public interest and credit union members by providing for the continuation of credit union services to members and by preserving credit union assets and the NCUSIF.

To take such action, NCUA must first determine that a credit union is either insolvent or in danger of insolvency before the agency can make the additional findings that an emergency exists, other alternatives are not reasonably available, and the public interest would be served by the merger. The FCU Act, however, does not define when a credit union is ''in danger of insolvency.''

In 2009, NCUA proposed a definition of in danger of insolvency to establish an objective standard to aid it in making in danger of insolvency determinations.[3] In doing so, NCUA aimed to provide certainty and consistency regarding how it interprets the in danger of insolvency standard. In 2010, NCUA finalized the 2009 proposed definition, which provided for the above-referenced three net worth categories, and it remains the current definition.[4]

Experience gained since 2010, including the analysis of Call Reports and other NCUA internal data, have led the Board to conclude that an update to the current definition of in danger of insolvency is needed.

II. Summary of the Proposed Rule

A. Overview

The current definition of in danger of insolvency requires a credit union to fall into at least one of three net worth categories to be found to be in danger of insolvency. The Board believes it necessary to amend the current definition in three ways.

First, the Board proposes to lengthen by six months the ''forecast horizons,'' the time periods in which NCUA projects a credit union's net worth for determining if it is in danger of insolvency. This change would apply to two of the three current categories. It would result in forecast horizons of 30 months for the insolvency (zero net worth) category, up from 24 months, and 18 months for the critically undercapitalized (under two percent net worth) category, up from 12 months. The third category of the current definition, in which a credit union is significantly undercapitalized and NCUA determines there is no reasonable prospect of the credit union becoming adequately capitalized in the succeeding 36 months, would remain unchanged.

The second change the Board proposes is the addition of a fourth category to the definition. Specifically, a credit union would be considered in danger of insolvency if it had been granted or received assistance under section 208 of the FCU Act in the 15 months prior to the Region's determination that the credit union is in danger of insolvency.

Finally, the Board proposes to make a technical spelling correction to the first category of the definition to replace the word ''relay'' with the word ''rely''.

The Board believes the proposed changes to the current definition would provide NCUA with a more appropriate degree of flexibility and better allow NCUA to act when the statutory criteria for an emergency merger are met, namely an emergency requiring expeditious action exists, no other reasonable alternatives are available, and the action is in the public interest.[5] As detailed below, both the experience NCUA has gained in applying the current definition and quantitative data have persuaded the Board that the proposed changes are necessary. Under the time frames of the current definition, NCUA has, on several occasions, been prevented from instituting an emergency merger because a struggling credit union had not yet met the regulatory time frames to be considered in danger of insolvency, although it had otherwise met the statutory criteria. The lack of flexibility in the current rule can result in continued decline in the health of a credit union, leading to a reduction in member services as the institution moves towards resolution. As shown in the chart below, credit union loan growth declines in the quarters leading up to an emergency merger.

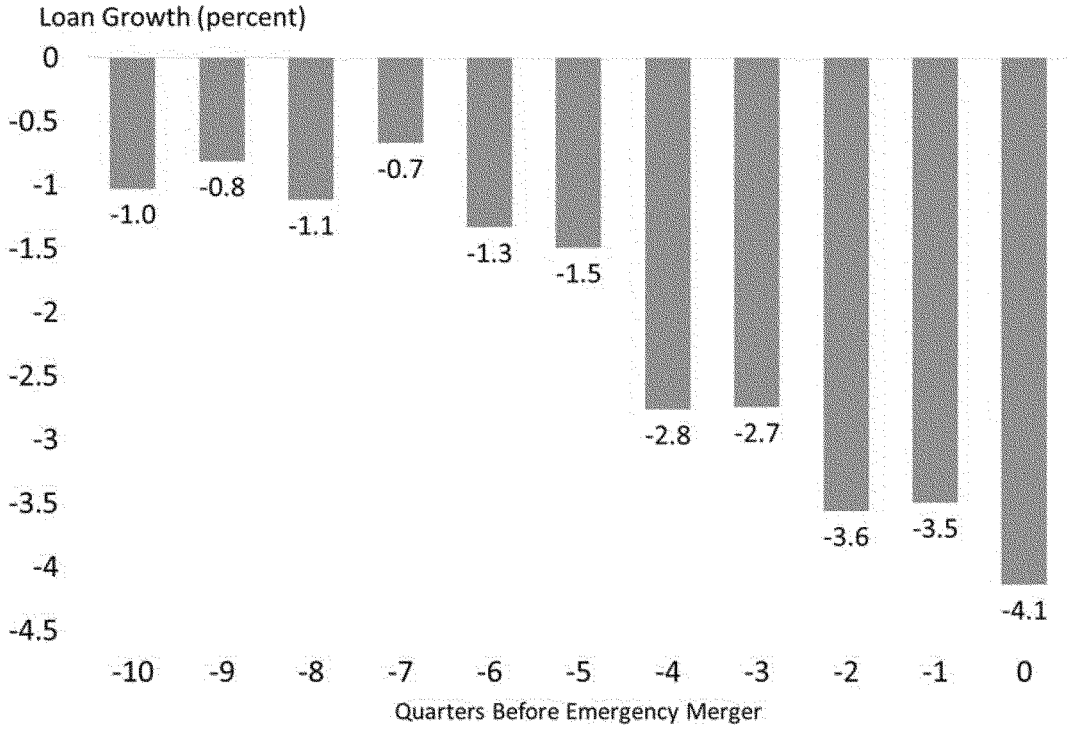
[1] NCUA's mission is to ''provide, through regulation and supervision, a safe and sound credit union system, which promotes confidence in the national system of cooperative credit.'' *https://www.ncua.gov/About/Pages/Mission-and-Vision.aspx.*

[2] 12 U.S.C. 1785(h).

[3] 74 FR 68722 (Dec. 29, 2009).

[4] 75 FR 36257 (June 25, 2010).

[5] 12 U.S.C. 1785(h).



In some instances, the rigidity of the current regulatory definition unnecessarily limits NCUA's ability to resolve failing institutions. This comes at a greater cost to a credit union's members and the NCUSIF, particularly in the case of an eventual liquidation. The FCU Act grants the Board broad authority to define the term ''in danger of insolvency'' for emergency merger purposes. The Board believes that the proposed definition increases agency flexibility and will enable NCUA to act more timely to preserve credit union services and credit union assets and to protect the safety and soundness of the credit union system and the NCUSIF.

B. Extending the Forecast Horizons

The Board proposes to amend the definition of in danger of insolvency in the glossary to appendix B to part 701 to extend the forecast horizons, the time periods in which NCUA must project whether a credit union will become insolvent or critically undercapitalized. Currently, to be deemed in danger of insolvency under the definition's first two categories, NCUA must project a credit union's future net worth will decline at a rate that will either render the credit union insolvent within 24 months or drop below two percent (critically undercapitalized) within 12 months. The Board proposes to extend these periods to 30 months and 18 months, respectively. The Board intends to leave as is the forecast horizon of the third category of the definition pertaining to significantly undercapitalized credit unions that NCUA projects have no reasonable prospect of becoming adequately capitalized in the succeeding 36 months.

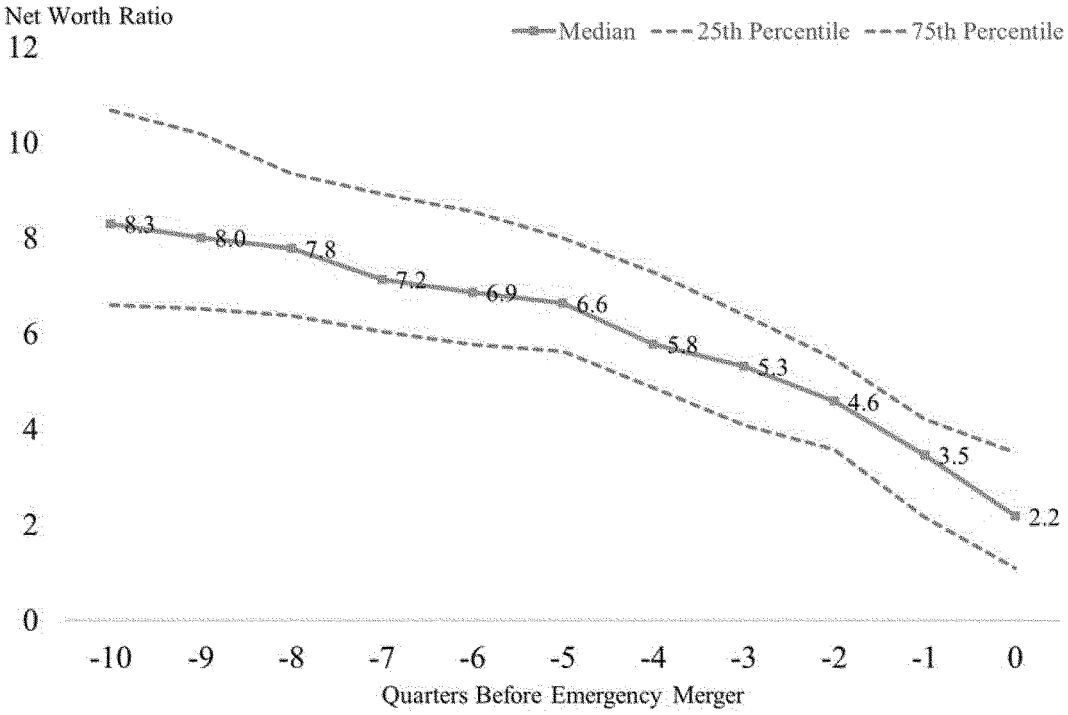
The Board believes that these proposed changes to the definition will capture more credit unions that are in danger of insolvency earlier in their decline, before their net worth declines most rapidly, and will provide value to both the members of the credit union being merged and the NCUSIF. Increasing the likelihood that a distressed credit union would be eligible for an emergency merger earlier could help to protect net worth, reduce payouts on deposit insurance or merger assistance, and improve merger prospects. The proposed changes also provide NCUA with additional flexibility to resolve the distressed credit union through a merger and help to better ensure continuity of financial services for members. This additional flexibility is especially beneficial when circumstances deplete a credit union's capital slowly and steadily rather than abruptly, such as in the case of an institution with a large portfolio of declining illiquid assets.

To evaluate the benefit of shifting the critically undercapitalized threshold from 12 to 18 months and the insolvency threshold from 24 to 30 months, NCUA used a simple forecast of the net worth ratios of 46 credit unions that underwent an emergency merger between the second quarter of 2010, when the current in danger of insolvency definition was put into place, and the fourth quarter of 2016.[6] Of the 46 credit unions that underwent an emergency merger since the rule was previously revised by the NCUA Board, 11 credit unions with total assets of $812 million would have qualified for an emergency merger earlier under the proposed definition of in danger of insolvency. The 11 credit unions had $12 million more in net worth at the time the credit unions first qualified under the proposed definition compared with the 2010 definition. The $12 million additional net worth meant the credit unions had net worth ratios 1 to 3 percentage points higher. Also, the longer forecast horizon allows NCUA to identify a significant number of additional potential credit union emergency merger candidates. The largest diagnostic improvements from extending the forecast horizon occur in

[6] This simple hypothetical forecast was used exclusively for purposes of analyzing emergency merger data and forecast horizons. It is not representative of, and does not limit, how NCUA projects credit unions to meet the established and proposed in danger of insolvency categories. The forecast of the net worth ratio uses the change in the net worth ratio during the most recently available four quarters and projects that change in net worth through the forecast horizon for each threshold. In other words, NCUA calculated whether the credit union would fall below either of the critical thresholds using a simple straight line projection approach, with the projected rate of decline in net worth equal to the most recently available four-quarter change.

the two quarters prior to an emergency merger. Instead of 31% of the credit unions estimated to be below the critically undercapitalized threshold within 12 months two quarters before the emergency merger and 50% one quarter before, 42% and 58% of the credit unions are estimated to be below the critically undercapitalized threshold within 18 months. The identification of these additional credit unions represent an opportunity for NCUA to preserve services to members and member assets through the emergency merger process prior to the quarters when the net worth of these credit unions declines the most. As the chart below illustrates, credit union net worth generally declines the most in the quarters leading up to an emergency merger.

Net Worth Ratio Prior to an Emergency Merger



The data closely aligns with the views and experiences of NCUA. The agency has found that the current forecast horizons for these two categories can result in the unnecessary delay or even rejection of emergency merger requests that do not meet the current regulatory definition of in danger of insolvency, but would otherwise meet the statutory criteria for an emergency merger. NCUA believes that extending these forecast horizons will lessen the potential for such occurrences. When a credit union cannot be timely merged through an emergency merger and no other credit unions with compatible fields of membership submit a merger proposal, NCUA must consider alternative and usually less desirable means of resolution. These less desirable means of resolution could even include the liquidation of the credit union. In general, merging a credit union into another institution is more desirable than liquidating the credit union because a merger is generally lower cost to the NCUSIF and provides continued and, in most cases, expanded service to the membership.

NCUA believes that the delay associated with waiting for an institution to deteriorate to the point where it satisfies the current regulatory definition of in danger of insolvency has too frequently resulted in struggling institutions being allowed to deteriorate over time to the point where they are no longer viable merger partners and have to be resolved by means that are more costly to the NCUSIF and more disruptive to the members. Rather than continue to operate under the current definition, which hampers NCUA's ability to take responsible supervisory action on a timely basis and ensure the safety and soundness of the credit union system, the Board proposes to amend the regulatory definition of in danger of insolvency to facilitate those mergers that satisfy the statutory requirements.

As stated above, the Board proposes to leave the forecast horizon for the third category of the current definition as is. Rather than establishing a time period in which credit unions are projected to decline to a certain point, as the other two categories do, the third category only allows NCUA to find that a credit union is in danger of insolvency if the credit union has no reasonable prospect of improving its net worth from the significantly undercapitalized level to the adequately capitalized level in the succeeding 36 months. The Board believes that the current forecast horizon for this category already provides credit unions significant time to become adequately capitalized and is concerned that any extension to the forecast horizon would make it exceedingly difficult to accurately determine if a credit union has a reasonable possibility of returning its net worth to the adequately capitalized level.

C. Section 208 Assistance

The Board proposes to expand the definition of in danger of insolvency in the glossary to appendix B to part 701 to add a fourth category that provides that a credit union will satisfy the definition of in danger of insolvency if

the credit union has been granted or received assistance under section 208 of the FCU Act in the 15 months prior to the Region making such determination. Section 208 allows the Board to provide special assistance to credit unions to avoid liquidation.

In analyzing credit union Call Reports and other internal NCUA data, NCUA has found that an overwhelming number of credit unions that received section 208 assistance eventually left the credit union system. Between the first quarter of 2001 and the fourth quarter of 2016, 181 credit unions received at least one type of section 208 assistance. Since then, 165, or 91.2%, of these credit unions have stopped filing Call Reports.

Further, the data shows that not only did the overwhelming majority of the credit unions that received section 208 assistance stop filing Call Reports, but did so not long after, or prior to, receiving the assistance. Notably, 13.9% of the total number of credit unions that received section 208 assistance began receiving such assistance after they filed their final Call Report. An additional 37.0% of these 165 credit unions filed their final Call Report in the same quarter in which they first began receiving section 208 assistance. Another 41.2% of these credit unions filed their final Call Report within the four quarters after the quarter they first received section 208 assistance. In total, 152 of the 165 credit unions, or 92.1%, stopped filing Call Reports prior to or within 15 months of receiving the section 208 assistance.

CREDIT UNIONS RECEIVING SECTION 208 ASSISTANCE: FIRST RECEIPT OF SECTION 208 ASSISTANCE TO LAST CALL REPORT FILED

	Number	Percent
Same quarter	61	37.0
1 year	68	41.2
2 years	3	1.8
3 years	2	1.2
4 or more years	8	4.8
Assistance began after final call report was filed	23	13.9
Total	165	100.0

The quantitative evidence, along with NCUA's experiences and observations, demonstrate that credit unions receiving section 208 assistance within the last 15 months are in danger of insolvency for emergency merger purposes.

It must be noted that the Board is not proposing that every credit union that receives section 208 assistance, thus meeting the proposed definition of in danger of insolvency, is destined for an emergency merger. The emergency merger statute addresses exigent circumstances. Credit unions to be merged on an emergency basis still must meet the statutory requirements that an emergency exists, other alternatives are not reasonably available, and the public interest would be served by the merger.[7] However, quantitative evidence and NCUA's experience do indicate that a credit union's receipt of section 208 assistance is a reliable indicator of a credit union being in danger of insolvency and a safety and soundness concern.

III. Regulatory Procedures

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires that, in connection with a notice of proposed rulemaking, an agency prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of a proposed rule on small entities. A regulatory flexibility analysis is not required, however, if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (defined for purposes of the RFA to include credit unions with assets less than $100 million) and publishes its certification and a short, explanatory statement in the **Federal Register** together with the rule. The proposed rule merely provides NCUA greater flexibility to authorize emergency mergers and will not have an impact on small credit unions. Accordingly, NCUA certifies that the proposed rule will not have a significant economic impact on a substantial number of small credit unions.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency creates a new or amends existing information collection requirements.[8] For the purpose of the PRA, an information collection requirement may take the form of a reporting, recordkeeping, or a third-party disclosure requirement. The proposed rule does not contain information collection requirements that require approval by OMB under the PRA.[9] The proposed rule would merely provide NCUA greater flexibility to authorize emergency mergers.

C. Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. This rulemaking will not have a substantial direct effect on the states, on the connection between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined that this proposal does not constitute a policy that has federalism implications for purposes of the executive order.

D. Assessment of Federal Regulations and Policies on Families

NCUA has determined that this final rule will not affect family well-being within the meaning of Section 654 of the Treasury and General Government Appropriations Act, 1999.[10]

List of Subjects in 12 CFR Part 701

Credit, Credit unions, Reporting and recordkeeping requirements.

[7] 12 U.S.C. 1785(h).

[8] 44 U.S.C. 3507(d); 5 CFR part 1320.

[9] 44 U.S.C. Chap. 35.

[10] Public Law 105–277, 112 Stat. 2681 (1998).

By the National Credit Union Administration Board on July 20, 2017.

Gerard Poliquin,

Secretary of the Board.

For the reasons discussed above, the NCUA Board proposes to amend 12 CFR part 701 as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

■ 1. The authority citation for part 701 is revised to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1758, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1785, 1786, 1787, 1788, 1789. Section 701.6 is also authorized by 15 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.;* 42 U.S.C. 1981 and 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

■ 2. Revise the definition of ''in danger of insolvency'' in Appendix 1 (Glossary) to appendix B to part 701 to read as follows:

* * * * *

In danger of insolvency—In making the determination that a particular credit union is in danger of insolvency, NCUA will establish that the credit union falls into one or more of the following categories:

1. The credit union's net worth is declining at a rate that will render it insolvent within 30 months. In projecting future net worth, NCUA may rely on data in addition to Call Report data. The trend must be supported by at least 12 months of historic data.

2. The credit union's net worth is declining at a rate that will take it under two percent (2%) net worth within 18 months. In projecting future net worth, NCUA may rely on data in addition to Call Report data. The trend must be supported by at least 12 months of historic data.

3. The credit union's net worth, as self-reported on its Call Report, is significantly undercapitalized, and NCUA determines that there is no reasonable prospect of the credit union becoming adequately capitalized in the succeeding 36 months. In making its determination on the prospect of achieving adequate capitalization, NCUA will assume that, if adverse economic conditions are affecting the value of the credit union's assets and liabilities, including property values and loan delinquencies related to unemployment, these adverse conditions will not further deteriorate.

4. The credit union has been granted or received assistance under section 208 of the Federal Credit Union Act, 12 U.S.C. 1788, in the 15 months prior to the Region's determination that the credit union is in danger of insolvency.

* * * * *

[FR Doc. 2017–15685 Filed 7–28–17; 8:45 am]

BILLING CODE 7535–01–P

GENERAL SERVICES ADMINISTRATION

41 CFR Chapters 101 and 102

[Notice–MA–2017–03; Docket 2017–0002; Sequence No. 7]

Evaluation of Existing Federal Management and Federal Property Management Regulations; Extension of Comment Period

AGENCY: General Services Administration (GSA).

ACTION: Request for comments; extension of comment period.

SUMMARY: GSA issued a request on May 30, 2017 seeking input by July 31, 2017. The comment period is extended until August 14, 2017, to provide additional time for interested parties to review and submit comments on the request.

DATES: The comment period for the document published in the **Federal Register** at 82 FR 24651, May 30, 2017, is extended for 14 days.

Comment Date: Interested parties should submit comments to the Regulatory Secretariat at one of the addresses shown below on or before August 14, 2017.

ADDRESSES: Submit comments identified by ''Notice–MA–2017–03, Evaluation of Existing Federal Management and Federal Property Regulations'' by any of the following methods:

• *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for Notice–MA–2017–03, Evaluation of Existing Regulations. Select the link ''Comment Now'' that corresponds with ''Notice–MA–2017–03, Evaluation of Existing Federal Management and Federal Property Management Regulations.'' Follow the instructions provided on the screen. Please include your name, company name (if applicable), and ''Notice–MA–2017–03, Evaluation of Existing Federal Management and Federal Property Management Regulations'' on your attached document.

• *Google form found at: https://goo.gl/forms/EzesI5HeTP7SGZpD3.*

If you are commenting via the google form, please note that each regulation or part that you are identifying for repeal, replacement or modification should be entered into the form *separately.* This will assist GSA in its tracking and analysis of the comments received.

• *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405.

GSA requests that comments be as specific as possible, include any supporting data, detailed justification for your proposal, or other information such as cost information, provide a Code of Federal Regulations (CFR) or **Federal Register** (FR) citation when referencing a specific regulation, and provide specific suggestions regarding repeal, replacement or modification.

FOR FURTHER INFORMATION CONTACT: Mr. Bob Holcombe, Director, Personal Property, Office of Government-wide Policy, 202–501–3828 or via email at *robert.holcombe@gsa.gov.*

SUPPLEMENTARY INFORMATION: GSA published a request in the **Federal Register** at 82 FR 24651, May 30, 2017 seeking input on federal management and federal property management regulations. The comment period is extended to provide additional time for interested parties to the review and submit comments on the request.

Dated: July 18, 2017.

Michael Downing,

Regulatory Reform Officer, Office of the Administrator.

[FR Doc. 2017–15457 Filed 7–28–17; 8:45 am]

BILLING CODE 6820–14–P

GENERAL SERVICES ADMINISTRATION

41 CFR Subtitle F

[Notice–MA–2017–02; Docket 2017–0002; Sequence No. 5]

Federal Travel Regulation System; Evaluation of Existing Federal Travel Regulation; Extension of Comment Period

AGENCY: General Services Administration (GSA).

ACTION: Request for comments; extension of comment period.

SUMMARY: GSA issued a document on May 30, 2017 seeking input by July 31, 2017. The comment period is extended to provide additional time for interested parties to review and submit comments on the document.

DATES: The comment period for the document published in the **Federal Register** at 82 FR 24652, published on May 30, 2017, is extended until August 14, 2017.

Comment Date: Interested parties should submit comments to the

Regulatory Secretariat at one of the addresses shown below on or before August 14, 2017.

ADDRESSES: Submit comments identified by ''Notice–MA–2017–02, Evaluation of Existing Federal Travel Regulation'' by any of the following methods:

• *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for Notice–MA–2017–02, Evaluation of Existing Federal Travel Regulation. Select the link ''Comment Now'' that corresponds with ''Notice–MA–2017–02, Evaluation of Existing Federal Travel Regulation.'' Follow the instructions provided on the screen. Please include your name, company name (if applicable), and ''Notice–MA–2017–02, Evaluation of Existing Federal Travel Regulation'' on your attached document.

• *Google form found at: https://goo.gl/forms/ArUI1rxwlM8yuMkt1.* If you are commenting via the google form, please note that each regulation or part that you are identifying for repeal, replacement or modification should be entered into the form *separately.* This will assist GSA in its tracking and analysis of the comments received.

• *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405.

GSA requests that comments be as specific as possible, include any supporting data, detailed justification for your proposal, or other information such as cost information, provide a Code of Federal Regulations (CFR) citation when referencing a specific regulation, and provide specific suggestions regarding repeal, replacement or modification.

FOR FURTHER INFORMATION CONTACT: Mr. Craig Flynn, Office of Government-wide Policy, 202–384–5977, or via email at *travelpolicy@gsa.gov.*

SUPPLEMENTARY INFORMATION: GSA published a document in the **Federal Register** at 82 FR 24652, May 30, 2017 seeking input on the Federal Travel Regulations (FTR). The comment period is extended to provide additional time for interested parties to the review and submit comments on the document.

Dated: July 18, 2017.

Michael Downing,

Regulatory Reform Officer, Office of the Administrator.

[FR Doc. 2017–15453 Filed 7–28–17; 8:45 am]

BILLING CODE 6820–14–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 17–18793, RM–11792; DA 17–679]

Television Broadcasting Services; Anchorage, Alaska

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has before it a petition for rulemaking filed by Gray Television Licensee, LLC (Gray), the licensee of KYES–TV, channel 5, Anchorage, Alaska, requesting the substitution of channel 7 for channel 5 at Anchorage. The Commission instituted a freeze on the acceptance of full power television rulemaking petitions requesting channel substitutions in May 2011, and a freeze on the filing of modification applications by full power and Class A television stations that would increase a station's noise-limited or protected contour beyond the station's currently licensed or authorized facility in April 2013. Gray asks that the Commission waive these freezes to permit KYES to relocate its transmitter and utilize upgraded equipment, thereby improving its over-the-air- signal to better serve viewers.

DATES: Comments must be filed on or before August 15, 2017, and reply comments on or before August 25, 2017.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 445 12th Street SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: Joan Stewart, Esq., Wiley Rein LLP, 1776 K Street NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Joyce Bernstein, *Joyce.Bernstein@fcc.gov,* Media Bureau, (202) 418–1647.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 17–187, adopted July 17, 2017, and released July 17, 2017. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street SW., Washington, DC 20554. This document will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.). To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an email to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts (other than *ex parte* presentations exempt under 47 CFR 1.1204(a)) are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1208 for rules governing restricted proceedings.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Thomas Horan,

Chief of Staff, Media Bureau.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336, and 339.

§ 73.622 [Amended]

■ 2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Alaska is amended by adding channel 7 and removing channel 5 at Anchorage.

[FR Doc. 2017–16002 Filed 7–28–17; 8:45 am]

BILLING CODE 6712–01–P

GENERAL SERVICES ADMINISTRATION

48 CFR Chapter V

[Notice–MV–2017–01; Docket 2017–0002; Sequence No. 6]

Evaluation of Existing Acquisition Regulations; Extension of Comment Period

AGENCY: General Services Administration (GSA).

ACTION: Request for comments; extension of comment period.

SUMMARY: GSA issued a request on May 30, 2017 seeking input by July 31, 2017. The comment period is extended, until August 14, 2017, in order to provide additional time for interested parties to review and submit comments on the request.

DATES: The comment period for the document published in the **Federal Register** at 82 FR 24653, on May 30, 2017, is extended for 14 days.

Comment Date: Interested parties should submit comments to the Regulatory Secretariat at one of the addresses shown below on or before August 14, 2017.

ADDRESSES: Submit comments identified by ''Notice–MV–2017–01, Evaluation of Existing Acquisition Regulations'' by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for Notice–MV–2017–01, Evaluation of Existing Acquisition Regulations. Select the link ''Comment Now'' that corresponds with ''Notice–MV–2017–01, Evaluation of Existing Acquisition Regulations.'' Follow the instructions provided on the screen. Please include your name, company name (if any), and ''Notice–MV–2017–01, Evaluation of Existing Acquisition Regulations'' on your attached document.
- *Google form found at: https://goo.gl/forms/GahAhb2aT4MVlREo1.*

If you are commenting via the google form, please note that each regulation or part that you are identifying for repeal, replacement or modification should be entered into the form *separately.* This will assist GSA in its tracking and analysis of the comments received.

- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Ms. Francine Serafin, Office of Government-wide Policy, 202–705–8659, or via email at *francine.serafin@gsa.gov.*

SUPPLEMENTARY INFORMATION: GSA published a request in the **Federal Register** at 82 FR 24653, on May 30, 2017, seeking input on acquisition regulations, policies, standards, business practices and guidance issued by GSA. The comment period is extended to provide additional time for interested parties to the review and submit comments on the request.

Dated: July 18, 2017.

Michael Downing,

Regulatory Reform Officer, Office of the Administrator.

[FR Doc. 2017–15458 Filed 7–28–17; 8:45 am]

BILLING CODE 6820–61–P

GENERAL SERVICES ADMINISTRATION

48 CFR Chapter V

[Notice–MV–2017–02; Docket 2017–0002; Sequence No. 8]

Evaluation of Existing Leasing Acquisition Regulations; Extension of Comment Period

AGENCY: General Services Administration (GSA).

ACTION: Request for comments; extension of comment period.

SUMMARY: GSA issued a document on May 30, 2017 seeking input by July 31, 2017. The comment period is extended until August 14, 2017, in order to provide additional time for interested parties to review and submit comments on the document.

DATES: The comment period for the document published in the **Federal Register** at 82 FR 24652, published on May 30, 2017, is extended until August 14, 2017.

Comment Date: Interested parties should submit comments to the Regulatory Secretariat at one of the addresses shown below on or before August 14, 2017.

ADDRESSES: Submit comments identified by ''Notice–MV–2017–02, Evaluation of Existing Leasing Acquisition Regulations'' by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for Notice–MV–2017–02, Evaluation of Existing Regulations. Select the link ''Comment Now'' that corresponds with ''Notice–MV–2017–02, Evaluation of Existing Leasing Regulations.'' Follow the instructions provided on the screen. Please include your name, company name (if any), and ''Notice–MV–2017–02, Evaluation of Existing Leasing Regulations'' on your attached document.
- *Google form found at: https://goo.gl/forms/4ilmzTHJ2HhDcmG23.* If you are commenting via the google form, please note that each regulation or part that you are identifying for repeal, replacement or modification should be entered into the form separately. This will assist GSA in its tracking and analysis of the comments received.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Ms. Francine Serafin, 202–705–8659, or via email at *francine.serafin@gsa.gov.*

SUPPLEMENTARY INFORMATION: GSA published a document in the **Federal Register** at 82 FR 24652 on May 30, 2017, seeking input on lease acquisition regulations, policies, standards, business practices and guidance issued by GSA. The comment period is extended to provide additional time for interested parties to the review and submit comments on the document.

Dated: July 18, 2017.

Michael Downing,

Office of the Administrator.

[FR Doc. 2017–15454 Filed 7–28–17; 8:45 am]

BILLING CODE 6820–61–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 650

[Docket No. FTA–2016–0008]

RIN 2132–AB27

Private Investment Project Procedures

AGENCY: Federal Transit Administration, Department of Transportation.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: The Federal Transit Administration (FTA) is proposing new, experimental procedures to encourage increased project management flexibility, more innovation in project funding, improved efficiency, timely project implementation, and new project revenue streams. A primary goal is to address impediments to the greater use of public-private partnerships (P3s) and private investment in public transportation capital projects (Private Investment Project Procedures or PIPP). FTA anticipates using the lessons learned from these experimental procedures to develop more effective approaches to including private

participation and investment in project planning, project development, finance, design, construction, maintenance, and operations.

DATES: Comments must be received September 29, 2017. Any comments filed after this deadline will be considered to the extent practicable.

ADDRESSES: Please identify your submission by Docket Number (FTA–2016–0008) or RIN number (2132–AB27) through one of the following methods:

- *Federal eRulemaking Portal:* Submit electronic comments and other data to *http://www.regulations.gov.*
- *U.S. Mail:* Send comments to Docket Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building, Ground Floor, at 1200 New Jersey Avenue SE., Washington, DC, between 9:00 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations, U.S. Department of Transportation, at (202) 493–2251.
- *Instructions:* You must include the agency name (Federal Transit Administration) and Docket Number (FTA–2016–0008) for this notice or RIN (2132–AB27), at the beginning of your comments. If sent by mail, submit two copies of your comments. Due to security procedures in effect since October 2001, mail received through the U.S. Postal Service may be subject to delays. Parties submitting comments should consider using an express mail firm to ensure the prompt filing of any submissions not filed electronically or by hand. If you wish to receive confirmation that FTA received your comments, you must include a self-addressed stamped postcard. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. You may review the complete U.S. Department of Transportation (DOT) Privacy Act Statement published in the **Federal Register** on April 11, 2000, at 65 FR 19477–8 or *http://DocketsInfo.dot.gov.*
- *Electronic Access and Filing:* This document and all comments received may be viewed online through the Federal eRulemaking portal at *http://www.regulations.gov.* Electronic submission and retrieval help and guidelines are available on the Web site. It is available 24 hours each day, 365 days a year. Please follow the instructions. An electronic copy of this document may also be downloaded from the Office of the Federal Register's home page at *https://www.federalregister.gov*.

FOR FURTHER INFORMATION CONTACT: For program matters, Tom Yedinak, Office of Budget and Policy, (202) 366–5137 or *Tom.Yedinak@dot.gov.* For legal matters, Charla Tabb, Office of Chief Counsel, (202) 366–4011 or *charla.tabb@dot.gov*.

SUPPLEMENTARY INFORMATION:

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I. Background

A. History

Over the past decade, Federal legislation has evolved to encourage increased use of public-private partnerships and private investment in public transportation capital projects. Pursuant to section 3011(c) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU), Public Law 109–59, the U.S. Secretary of Transportation (Secretary) established a pilot program, commonly referred to as ''Penta-P,'' to demonstrate the advantages and disadvantages of public-private partnerships for certain new fixed guideway capital projects. 72 FR 2583–01 (January 19, 2007). SAFETEA–LU also required that the Secretary identify and examine the costs, benefits, and efficiencies of applying P3 delivery approaches to transit projects. The resulting report, entitled ''Report to Congress on the Costs, Benefits, and Efficiencies of Public-Private Partnerships for Fixed Guideway Capital Projects,'' [1] was transmitted to Congress in December 2007.

In order to facilitate increased private sector participation in project development, finance, design, construction, maintenance, and operations of transit projects, in 2008 and 2009, FTA, along with the National Council of Public-Private Partnerships, sponsored eight public workshops on P3s in transit and a one-day workshop for FTA employees. Each workshop attracted almost 100 participants and provided technical assistance to transit agencies, local officials, and consultants on legal and regulatory issues, financing, and contract matters related to P3s.

In 2009, the Government Accountability Office (GAO) released a report, ''Public Transportation—Federal Project Approval Process Remains a Barrier to Greater Private Sector Role and DOT Could Enhance Efforts to Assist Project Sponsors, (GAO–10–19)'' [2] (GAO Report), which recommended that FTA increase efforts to better equip project sponsors by developing guidance and providing technical assistance on P3s. In response to the GAO Report, FTA created a Private Sector Participation Web site that provides guidance, technical support and resources to those project sponsors considering P3s.[3]

More recently, Section 20013(b)(1) of the Moving Ahead for Progress in the 21st Century Act (MAP–21), Public Law 112–141 (July 6, 2012), directed FTA to identify impediments in chapter 53 of title 49 of the United States Code, and any regulations or practices thereunder, to the use of public-private partnerships and private investment in public transportation capital projects, and to develop and implement procedures on a project basis that address such impediments in a manner similar to the Special Experimental Project Number 15 of the Federal Highway Administration (FHWA), commonly referred to as ''SEP–15''. Additionally, Section 3005(b) of the Fixing America's Surface Transportation (FAST) Act, Public Law 114–94 (December 4, 2015), authorizes an expedited project delivery program for capital investment projects that requires projects be supported, at least in part, by public-private partnerships.

Moreover, project sponsors have used the Transportation Infrastructure Finance and Innovation Act (TIFIA) (23 U.S.C. 181–189, 601–609), the private activity bonds (PABs) legislation (26 U.S.C. 141–147) and the Railroad Rehabilitation and Improvement Financing (RRIF) program (45 U.S.C. 821–823) to help finance public transit capital projects. TIFIA provides Federal credit assistance in the form of direct loans, loan guarantees, and standby lines of credit. The PABs legislation authorized the Department of Transportation to offer PABs allocations to private developers and operators, providing them access to tax-exempt interest rates and potentially more favorable interest rates. The RRIF program provides Federal credit assistance in the form of direct loans and loan guarantees.

[1] *http://www.fta.dot.gov/documents/Costs_Benefits_Efficiencies_of_Public-Private_Partnerships.pdf.*

[2] *http://www.gao.gov/new.items/d1019.pdf.*

[3] *https://www.transit.dot.gov/funding/funding-finance-resources/private-sector-participation/private-sector-participation-1.*

FTA also has issued guidance to facilitate private sector participation, such as Circular 7050.1, ''Federal Transit Administration Guidance on Joint Development,'' which provides guidance on how transit agencies may use FTA funds or FTA-funded real property for joint development with the private sector.

Section 9001 of the FAST Act established the National Surface Transportation and Innovative Finance Bureau (referred to as the Build America Bureau), in the Department which aims to drive transportation infrastructure development projects in the United States by streamlining credit opportunities and grants more quickly and transparently, while providing technical assistance and encouraging innovative best practices in project planning, financing, delivery, and monitoring. The Bureau works with project sponsors to educate them on how they can best utilize innovative project delivery approaches, such as P3s, and offers project-specific technical assistance.

B. Perceived Barriers

Pursuant to Section 20013(b)(1) of MAP–21, FTA has undertaken research on potential impediments to the greater use of public-private partnerships and private investment in public transportation capital projects. FTA has reviewed a number of Federal agency reports on the use of private investment in public infrastructure projects and has reviewed statements from the private sector, financial institutions, transit agencies, other transit industry organizations and the public about perceived barriers that exist industry-wide and in FTA's policies. FTA also conducted an online dialogue from October 2014 to January 2015 with grantees and stakeholders to help inform this rulemaking process.

In general, commenters suggested that FTA grant processes should be further streamlined in order to encourage greater use of public-private partnerships and private investment in public transportation capital projects. In addition, some commenters suggested that the timing of grant awards can discourage lender interest because it is perceived to be incompatible with the timing of private financing schedules, public agency procurement schedules and DOT financing programs, such as TIFIA, RRIF and PABs. Commenters recommended that the level of Federal oversight could be more flexible and dependent upon the experience of the project sponsor, terms of agreements, and the existence of concurrent, independent oversight, such as state or regulatory agencies, and type of financing. Commenters also suggested that FTA rely more heavily upon approvals of third parties with jurisdiction over a project, rather than replicate certain reviews, and questioned whether any necessary FTA reviews could be expedited by having them performed by an independent third party selected by FTA, but paid for by the project sponsor. Some comments were unrelated to the subject matter of the online dialogue or provided only opinions as to the benefits or disadvantages of private investment in public projects, without offering any suggestions that FTA could apply to draft this proposed rule.

This proposed rule aims to address the comments received during the online dialogue as well as other potential impediments identified in FTA's research. Under the proposed rule, recipients funding a public transportation capital project subject to 49 U.S.C. chapter 53 with FTA, RRIF, TIFIA or other Federal financial assistance could request a modification or waiver, in whole or in part, of a specific FTA regulation, practice, procedure or guidance document (including a circular) that may be an impediment to the use of P3s or private investment in that project. For example, an applicant could propose that FTA rely upon approvals of third parties with jurisdiction over an eligible project, rather than replicate certain FTA oversight reviews.

C. Purpose of Regulatory Action

Section 20013(b)(1) of MAP–21 required FTA to identify any provisions of 49 U.S.C. chapter 53, and any regulations or practices thereunder, that impede greater use of P3s and private investment. FTA must develop and implement on a project basis procedures and approaches that address such impediments in a manner similar to FHWA's SEP–15 and protect the public interest and any public investment in public transportation capital projects that involve P3s or private investment. Section 20013(b)(5) of MAP–21 requires the issuance of a rule to carry out the procedures and approaches developed under section 20013(b)(1).

In 2004 FHWA initiated SEP–15, pursuant to authority granted the Secretary by 23 U.S.C. 502(b), to create a procedure to waive the requirements of title 23 of the United States Code and implementing regulations on a case-by-case basis in order to encourage tests and experimentation in the entire project development process, specifically aimed at attracting private investment, leading to increased project management flexibility, more innovation, improved efficiency, timely project implementation, and new revenue streams. 69 FR 59983 (October 6, 2004). SEP–15 permits FHWA to experiment in four major areas of project delivery—contracting, right-of-way acquisition, project finance, and compliance with the National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.,* and other environmental requirements. SEP–15 enables FHWA to actively explore changes in the way it approaches the oversight and delivery of highway projects to further the Administration's goals of reducing congestion and preserving transportation infrastructure. A key feature of SEP–15 is that it allows FHWA to identify current FHWA laws, regulations, and practices that inhibit greater use of P3s and private investment in transportation improvements and allows FHWA to develop procedures and approaches that address these impediments.

FHWA currently administers several projects under SEP–15, including the two examples provided below.[4]

FHWA SEP–15 Projects

1. The Pennsylvania Department of Transportation (PennDOT) is replacing 558 bridges throughout the State as a single P3 project. At PennDOT's request, FHWA allowed the private partner in the P3 to be responsible for preparing, in coordination with the overall replacement schedule, the NEPA supporting documentation and draft environmental decision documents for each bridge. In addition, the private partner was allowed to select the consultant that prepares the NEPA document and retain exclusive control over the consultant. These are deviations from FHWA design-build regulations codified at 23 CFR part 636. FHWA's acceptance of the PennDOT proposal was conditional and contingent on the inclusion of specific safeguards to protect the integrity of the environmental decision-making process. FHWA and PennDOT remain responsible for issuing the final environmental determinations under NEPA, and FHWA and PennDOT remain responsible for the scope and contents of the NEPA documents.

2. The Idaho Transportation Department (ITD) recently completed a ten-year capital program that added 120 miles to Idaho's highway system, including many new or improved bridges and interchanges. The program was funded primarily through a series of

[4] *http://www.fhwa.dot.gov/ipd/p3/tools_programs/sep15.aspx.*

grant anticipation bonds, or GARVEEs, and delivered by a private sector program manager. FHWA allowed ITD to initiate final design and acquire right of way (by voluntary sale only) prior to conclusion of the NEPA process, through deviations from multiple provisions of 23 CFR parts 710 and 771. FHWA's acceptance of these waivers required ITD to put in place specific safeguards to, for example, avoid the appearance of undue influence on property owners and perceptions of unfavorable treatment for those properties not acquired. ITD was also required to show that the acquisition of properties did not influence the NEPA decisions.

Having concluded its research, and pursuant to Section 20013(b)(5) of MAP–21, FTA is proposing the PIPP, which would be similar to FHWA's SEP–15, and would help address impediments to the greater use of public-private partnerships and private investment in public transportation capital projects identified by FTA. The PIPP are intended to encourage project sponsors to seek modifications of Federal requirements that will accelerate the project development process, attract private investment and lead to increased project management flexibility, more innovation, improved efficiency, and/or new revenue streams.

A key goal of the PIPP would be to identify provisions of current FTA regulations, practices, procedures, and guidance documents that may be impediments to the greater use of public-private partnerships and private investment in public transportation capital projects, and, where possible, modify such requirements while ensuring protection of the public interest and any public investment in the project. In accordance with Section 20013(b)(6) of MAP–21, the PIPP could not be used to waive any requirement under NEPA, 49 U.S.C. chapter 53 (including 49 U.S.C. 5333), or any other provision of Federal statute. Thus, the PIPP would allow for innovations in project delivery while maintaining FTA's stewardship responsibilities. The lessons learned from projects approved under the PIPP would aid FTA in developing more effective approaches to project planning, project development, finance, design, construction, maintenance, and operations.

As with the SEP–15 program, a recipient could apply to FTA to request modification or waiver of specific FTA requirements that the recipient contends make a project unattractive from the P3 or private investment standpoint. The FTA Administrator would have discretion to grant a modification or waiver of a requirement under certain circumstances. Applications would be required to include specific information in order to be considered for the PIPP; FTA is considering creating a standard format for applications that would assist applicants in ensuring the completeness of their applications, and allow for electronic submission of applications via the FTA Web site. FTA recognizes that PIPP project proposals could include multi-modal components. FTA would coordinate the review of multi-modal project proposals with the appropriate DOT modal administration(s). In addition, if PIPP project proposals anticipate financing under TIFIA, RRIF or PABs, FTA would coordinate with the Bureau.

II. Summary of Provisions

The proposed rule would add a new part 650, ''Private Investment Project Procedures,'' to title 49 of the Code of Federal Regulations. The rule proposes to implement the statutory requirements of section 20013(b)(1) of MAP–21. The rule would be composed of four subparts.

Subpart A, sections 650.1 through 650.5, would contain the definitive terms of the rule: The purpose, applicability and defined terms.

Subpart B, section 650.11, would describe who may submit an application, the type of project eligible for consideration, and factors that the applicant must demonstrate in order for FTA to consider waiving or modifying its requirements. The proposed section 650.13 would provide limitations on FTA's ability to waive or modify certain requirements despite implementation of the proposed rule.

Subpart C, section 650.21 would require successful applicants to submit a report following completion of the project that would analyze the impact of the experimental procedures on project delivery.

Subpart D, section 650.31, would describe the application process, including the minimum requirements for applications. One of the minimum requirements is evidence of committed financing for the project, including from private partners or investors in a proposed project. FTA seeks comment on whether requiring evidence of committed financing would be premature at the time of application.

III. Regulatory Analyses and Notices

Executive Order 12866 and 13563; USDOT Regulatory Policies and Procedures

Executive Orders 12866 and 13563 direct Federal agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits—including potential economic, environmental, public health and safety effects, distributive impacts, and equity. Also, Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The proposed rule would encourage tests and experimentation in the project development process and is specifically aimed at attracting public-private partnerships and private investment. Public-private partnerships of capital projects are rare in the U.S. transit industry, although they are common in other countries. The proposed rule would provide an avenue to address existing impediments to P3 projects with the aim of increasing their use, but it is unlikely, on its own, to significantly increase the level of P3 activity in the U.S. transit industry.

FTA has determined this rulemaking is a non-significant regulatory action within the meaning of Executive Order 12866 and is non-significant within the meaning of the U.S. Department of Transportation's regulatory policies and procedures. FTA has examined the potential economic impacts of this rulemaking and has determined that this rulemaking is not economically significant because it will not result in an effect on the economy of $100 million or more. The proposals set forth in today's rule will not adversely affect the economy, interfere with actions taken or planned by other agencies, or generally alter the budgetary impact of any entitlements, grants, user fees, or loan programs.

Executive Order 13771

This proposed rule is expected to be an EO 13771 deregulatory action because FTA believes it would reduce the cost of complying with FTA's requirements. However, FTA is unable at this time to quantify the cost savings due to the lack of information about (1) the types of waivers that would be requested, (2) the number of waivers that would be requested, and (3) the difference in cost between complying with FTA's existing requirements and complying with the requirements of a waiver and this proposed rule. FTA requests public comments on estimating the cost savings of this proposed rule.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354; 5 U.S.C. 601–612), FTA has evaluated the likely

effects of the proposals set forth in this NPRM on small entities, and has determined that the NPRM would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This proposed rulemaking would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4; 109 Stat. 48).

Executive Order 13132 (Federalism)

This proposed rulemaking has been analyzed in accordance with the principles and criteria established by Executive Order 13132 (Aug. 4, 1999). FTA has determined that the proposed action would not have sufficient Federalism implications to warrant the preparation of a Federalism assessment. FTA has also determined that this proposed action would not preempt any State law or State regulation or affect the States' abilities to discharge traditional State governmental functions. Moreover, consistent with Executive Order 13132, FTA has examined the direct compliance costs of the NPRM on State and local governments and has determined that the collection and analysis of the data are eligible for Federal funding under FTA's grant programs.

Executive Order 12372 (Intergovernmental Review)

The regulations effectuating Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this proposed rulemaking.

Paperwork Reduction Act (PRA)

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget for each collection of information they conduct, sponsor, or require through regulations. FHWA has received an average of less than one application per year for the SEP–15 program since its inception. Therefore, FTA believes that this proposed rule will not generate collection of information requirements that impact ten or more applicants. FTA seeks comment on whether FTA should anticipate ten or more applications to the PIPP on an annual basis.

National Environmental Policy Act

NEPA requires Federal agencies to analyze the potential environmental effects of their proposed actions in the form of a categorical exclusion, environmental assessment, or environmental impact statement. This proposed rulemaking is categorically excluded under FTA's environmental impact procedure at 23 CFR 771.118(c)(4), pertaining to planning and administrative activities that do not involve or lead directly to construction, such as the promulgation of rules, regulations, and directives. FTA has determined that no unusual circumstances exist in this instance, and that a categorical exclusion is appropriate for this rulemaking.

Executive Order 12630 (Taking of Private Property)

This rulemaking will not affect a taking of private property or otherwise have taking implications under Executive Order 12630 (March 15, 1998), Governmental Actions and Interference with Constitutionally Protected Property Rights.

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations)

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, and DOT Order 5610.2(a) (77 FR 27534) require DOT agencies to achieve environmental justice (EJ) as part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects, including interrelated social and economic effects, of their programs, policies and activities on minority and/or low-income populations. The DOT Order requires DOT agencies to address compliance with the Executive Order and the DOT Order in all rulemaking activities. In addition, on July 17, 2014, FTA issued a circular to update its EJ Policy Guidance for Federal Transit Recipients (*www.fta.dot.gov/legislation_law/12349_14740.html*), which addresses administration of the Executive Order and DOT Order.

FTA has evaluated this rule under the Executive Order, the DOT Order, and the FTA Circular and has determined that this rulemaking will not cause disproportionately high and adverse human health and environmental effects on minority or low income populations.

Executive Order 12988 (Civil Justice Reform)

This action meets the applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988 (February 5, 1996), Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

FTA has analyzed this proposed rulemaking under Executive Order 13045 (April 21, 1997), Protection of Children from Environmental Health Risks and Safety Risks. FTA certifies that this proposed rule will not cause an environmental risk to health or safety that may disproportionately affect children.

Executive Order 13175 (Tribal Consultation)

FTA has analyzed this action under Executive Order 13175 (November 6, 2000), and believes that it will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal laws. Therefore, a tribal summary impact statement is not required.

Executive Order 13211 (Energy Effects)

FTA has analyzed this proposed rulemaking under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). FTA has determined that this action is not a significant energy action under the Executive Order, given that the action is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not requirement.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of FTA's dockets by the name of the individual submitting the comment or signing the comment if submitted on behalf of an association, business, labor union, or any other entity. You may review USDOT's complete Privacy Act Statement published in the **Federal Register** on April 11, 2000, at 65 FR 19477–8.

Statutory/Legal Authority for This Rulemaking

This rulemaking is issued under the authority of section 20013(b)(1) of MAP–21, which requires the Secretary to issue rules to carry out procedures and approaches for alleviating impediments to P3s or private investment in public transportation.

Regulation Identifier Number

A Regulation Identifier Number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each

year. The RIN set forth in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 650

Grant programs—transportation, Mass transportation.

For the reasons set forth in the preamble, and under the authority of Section 20013(b)(1) of The Moving Ahead for Progress in the 21st Century Act (Pub. L. 112–141) and the delegations of authority at 49 CFR 1.91, FTA hereby proposes to amend Chapter VI of Title 49, Code of Federal Regulations by adding Part 650 to read as follows:

PART 650—PRIVATE INVESTMENT PROJECT PROCEDURES

Sec.

Authority: Sec. 20013(b)(5), Pub. L. 112–141, 126 Stat 405; 49 CFR 1.91.

Subpart A—General Provisions

§ 650.1 Purpose.

This part establishes private investment project procedures that seek to identify and address Federal Transit Administration requirements that are impediments to the greater use of public-private partnerships and private investment in public transportation capital projects, while protecting the public interest and any public investment in such projects.

§ 650.3 Applicability.

This part applies to any recipient subject to 49 U.S.C. chapter 53 that funds a public transportation capital project with Federal financial assistance under 49 U.S.C. chapter 53, the Transportation Infrastructure Finance and Innovation Act (TIFIA) (23 U.S.C. 181–189, 601–609), the Railroad Rehabilitation and Improvement Financing (RRIF) program (45 U.S.C. 821–823), or with any other Federal financial assistance.

§ 650.5 Definitions.

All terms defined in 49 U.S.C. chapter 53 are applicable to this part. The following definitions also apply to this part:

Administrator means the Administrator of the Federal Transit Administration.

Application means the formal documentation of an applicant's request to modify FTA requirements for an eligible project.

Eligible project means any surface transportation capital project that is subject to 49 U.S.C. chapter 53 and that will be implemented as a public-private partnership, a joint development, or with other private sector investment.

FTA means the Federal Transit Administration.

FTA requirements means, for purposes of this part, existing FTA regulations and mandatory provisions of practices, procedures or guidance documents, including circulars.

Joint development has the meaning ascribed to it in FTA Circular 7050.1 ''Federal Transit Administration Guidance on Joint Development'' and, for purposes of this part, includes private sector contributions, whether in the form of cash investment, capital construction contributed at the private sector's cost or other contribution determined by the Administrator to qualify.

Other private sector investment means a financial or capital contribution to an eligible project from a private sector investor that is not provided through a public-private partnership or joint development.

Private investment project procedures means the procedures by which applicants may propose, and the Administrator may agree, subject to the requirements of this part, to modify or waive existing FTA requirements for an eligible project.

Private sector investor means the private sector entity that proposes to contribute funding to an eligible project.

Public-private partnership (P3) means a contractual agreement formed between a public agency and a private sector entity that is characterized by private sector investment and risk-sharing in the delivery, financing and operation of a project.

Recipient means an entity that proposes to receive Federal financial assistance for an eligible project under 49 U.S.C. chapter 53, RRIF, TIFIA or other Federal financial assistance program.

Subpart B—Private Investment Project Procedures

§ 650.11 Private investment project procedures.

(a) A recipient may, subject to the requirements of this part, submit applications to modify or waive existing FTA requirements for an eligible project. For projects with multiple recipients, recipients may, but are not required to, submit an application for a project jointly; however, only one application per project may be submitted. All applications shall comply with the requirements of § 650.31.

(b) Subject to § 650.13, the Administrator may modify or waive FTA requirements if the Administrator determines that the recipient has demonstrated that—

(1) The FTA requirement proposed for modification discourages the use of a public-private partnership, a joint development, or other private sector investment in a Federally assisted public transportation capital project,

(2) The proposed modification or waiver of the FTA requirements is likely to have the effect of encouraging a public-private partnership, a joint development, or other private sector investment in a Federally-assisted public transportation capital project,

(3) The amount of private sector participation or risk transfer proposed is sufficient to warrant modification or waiver of FTA requirements, and

(4) Modification or waiver of the FTA requirements can be accomplished while protecting the public interest and any public investment in the proposed Federally assisted public transportation capital project.

§ 650.13 Limitation.

(a) Nothing in this part may be construed to allow the Administrator to modify or waive any requirement under-

(1) 49 U.S.C. 5333;

(2) The National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*) or

(3) Any other provision of Federal statute.

(b) The Administrator's consideration of an application under this part does not commit Federal-aid funding for the project.

Subpart C—Reporting

§ 650.21 Lessons learned report.

No later than one year after completion of a project for which the Administrator has modified or waived any FTA requirement pursuant to this part, the recipient shall submit to FTA

a report that evaluates the effect of the modification or waiver of Federal requirements on the delivery of the project. The report shall describe the modification or waiver applied to the project; evaluate the success or failure of the modification or waiver; evaluate the extent to which the modification or waiver addressed impediments to greater use of public-private partnerships and private investment in public transportation capital projects; and may include any recommended statutory, regulatory or other changes with an explanation of how the changes would encourage greater use of public-private partnerships and private investment in public transportation capital projects.

Subpart D—Applications

§ 650.31 Application process.

(a) Applications must be submitted to the FTA Private Sector Liaison at the Federal Transit Administration, 1200 New Jersey Avenue SE., Washington, DC 20590.

(b) To be considered, an application submitted under this part must—

(1) Describe the proposed project with respect to anticipated scope, cost, schedule, and anticipated source and amount of Federal financial assistance,

(2) Identify whether the project is to be delivered as a public-private partnership, as a joint development or with other private sector investment,

(3) Describe in detail the role of the private sector investor, if any, in delivering the project,

(4) Identify the specific FTA requirement that the recipient requests to have modified or waived and a proposal as to how a requirement should be modified,

(5) Provide a justification for the modification or waiver, including an explanation of how the FTA requirement presents an impediment to a public-private partnership, joint development, or other private sector investment,

(6) Explain how the public interest and public investment in the project will be protected and how FTA can ensure the appropriate level of public oversight and control, as determined by the Administrator, is undertaken if the modification or waiver is allowed,

(7) Provide other recipients' concurrence with submission of the application and waiver of the right to submit a separate application for the same project, where a project has more than one recipient at the time of application,

(8) Provide a financial plan identifying sources and uses of funds committed to the project, and

(9) Explain the expected benefits that the modification or waiver of FTA requirements would provide to address impediments to the greater use of public-private partnerships and private investment in the project.

(c) The Administrator shall notify the recipient in writing if the application fails to meet the requirements of § 650.31(b). If the recipient does not supplement an incomplete application within thirty days of the date of the Administrator's notification, the application will be considered withdrawn without prejudice. The Administrator will not consider an application until the application is complete. The Administrator reserves the right to request additional information beyond the requirements in 650.31(b) upon determining that more information is needed to evaluate an application.

(d) For applications that have been deemed complete, the Administrator will notify the recipient in writing as to whether the request for modification or waiver is approved or denied. Any approval may be given in whole or in part and may be conditioned or contingent upon the recipient satisfying the conditions identified in the approval.

Issued on: July 25, 2017.

Matthew J. Welbes,

Executive Director.

[FR Doc. 2017–15985 Filed 7–28–17; 8:45 am]

BILLING CODE P

Notices

Federal Register
Vol. 82, No. 145
Monday, July 31, 2017

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

July 26, 2017.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by August 30, 2017 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725—17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: U.S. Origin Health Certificate, OMB Control Number: 0579–0020.

Summary of Collection: The Animal Health Protection Act (AHPA) of 2002 is the primary Federal law governing the protection of animal health. The AHPA is contained in Title X, Subtitle E, Sections 10401–18 of Public Law 107–171, May 13, 2002, the Farm Security and Rural Investment Act of 2002. As part of its mission to facilitate the export of U.S. animals and products, the U.S. Department of Agriculture, Animal and Plant Health Inspection Service (APHIS), Veterinary Services (VS), maintains information regarding the import health requirements of other countries for animals and animal products exported from the United States. Most countries require a certification that the animals are disease free.

To ensure a favorable balance of trade and compliance with export health requirements, APHIS uses information collection activities such as U.S. Origin Health Certificates; U.S. Interstate and International Certificates of Health Examinations for Small Animals; U.S. Origin Health Certificates for the Export of Horses from the United States to Canada; Health Certificates for the Export of Live Finfish, Mollusks, and Crustaceans (and their Gametes); Undue Hardship Explanations-Animals; Applications for Approval of Inspection Facility-Environmental Certification; Annual Inspections of Inspection Facilities; Opportunities to Present Views Concerning Withdrawal of Facility Approval; Certifications to Carry Livestock; Inspections of Vessel Prior to Voyage; Notarized Statements; Aircraft Cleaning and Disinfection; Country-Specific Health Care; and Travel Time.

Need and Use of the Information: The collection of this information prevents unhealthy animals from being exported from the United States. The information collected is used to: (1) Establish that the animals are moved in compliance with USDA regulations, (2) verify that the animals destined for export are listed on the health certificate by means of an official identification, (3) verify to the consignor and consignee that the animals are healthy, (4) prevent unhealthy animals from being exported and (5) satisfy the import requirements of receiving countries. If these certifications were not provided, other countries would not accept animals from the United States.

Description of Respondents: Farms; Business or other for profit.

Number of Respondents: 2,226.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 17,170.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2017–16020 Filed 7–28–17; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–836]

Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Rescission of Antidumping Duty Administrative Review in Part; 2016–2017

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

SUMMARY: The Department of Commerce (the Department) is partially rescinding its administrative review on certain cut-to-length carbon-quality steel plate products (CTL plate) from the Republic of Korea (Korea) for the period of review (POR) February 1, 2016, through January 31, 2017.

DATES: Effective July 31, 2017.

FOR FURTHER INFORMATION CONTACT: Yang Jin Chun AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–5760.

SUPPLEMENTARY INFORMATION:

Background

On February 8, 2017, we published a notice of opportunity to request an administrative review of the antidumping duty order on CTL plate from Korea for the POR February 1,

2016, through January 31, 2017.[1] On April 10, 2017, in response to timely requests from, *inter alia,* Nucor Corporation and in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the antidumping duty order on CTL plate from Korea with respect to 14 companies.[2] On July 10, 2017, Nucor Corporation timely withdrew its request for an administrative review for Bookuk Steel Co., Ltd., Daewoo International Corp., Hyundai Glovis Co., Ltd., Hyundai Mipo Dockyard Co., Ltd., Hyosung Corporation, Samsung C&T Corp., Samsung C&T Engineering & Construction Group, Samsung C&T Trading and Investment Group, Samsung Heavy Industries, SK Networks Co., Ltd., Steel N People Ltd., and Sung Jin Steel Co., Ltd.[3]

Rescission of Administrative Review in Part

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, ''in whole or in part, if a party that requested a review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review.'' Because Nucor Corporation withdrew its review request in a timely manner, and because no other party requested a review of the 12 companies identified above, we are rescinding the administrative review in part with respect to these 12 companies.

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. For these 12 companies, for which the review is rescinded, antidumping duties shall be assessed at the rate equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions to CBP within 15 days after publication of this notice.

Notifications To Importers

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

Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO, in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(d)(4).

Dated: July 24, 2017.

James Maeder,

Senior Director performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2017–16037 Filed 7–28–17; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 82 FR 9709 (February 8, 2017).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 82 FR 17188, 17194 (April 10, 2017).

[3] *See* Nucor Corporation's withdrawal of review request dated July 10, 2017. Because the 90th day from the publication of the *Initiation Notice* was Sunday, July 9, 2017, the actual due date for filing the withdrawal of review request was Monday, July 10, 2017. *See* 19 CFR 351.303(b)(1) (''For both electronically filed and manually filed documents, if the applicable due date falls on a non-business day, the Secretary will accept documents that are filed on the next business day.'').

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 94–5A007]

Export Trade Certificate of Review

ACTION: Notice of issuance of an amended Export Trade Certificate of Review to Florida Citrus Exports, L.C. (FCE), application No. 94–5A007.

SUMMARY: The Secretary of Commerce, through the Office of Trade and Economic Analysis (OTEA), issued an amended Export Trade Certificate of Review to FCE on July 17, 2017. A previous amended Export Trade Certificate of Review was issued to FCE on October 13, 2010, and a notice of its issuance was published in the **Federal Register** on October 25, 2010.

FOR FURTHER INFORMATION CONTACT: Joseph Flynn, Director, Office of Trade and Economic Analysis, International Trade Administration, (202) 482–5131 (this is not a toll-free number) or email at *etca@trade.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. Sections 4001–21) (the Act) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from State and Federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. The regulations implementing Title III are found at 15 CFR part 325 (2015). OTEA is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Secretary of Commerce to publish a summary of the certification in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

FCE's Export Trade Certificate of Review has been amended to:

- Add the following new Member of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)): Premier Citrus Marketing, LLC.

FCE's Export Trade Certificate of Review Membership, as amended, is listed below:

Golden River Fruit Co., Vero Beach, Florida
Hogan and Sons, Inc., Vero Beach, Florida
Indian River Exchange Packers, Inc., Vero Beach, Florida
Leroy E. Smith's Sons, Inc., Vero Beach, Florida
The Packers of Indian River, Ltd., Ft. Pierce, Florida
Premier Citrus Marketing, LLC, Vero Beach, Florida
River One International Marketing, Inc., Vero Beach, Florida
Riverfront Packing Co. LLC, Vero Beach, Florida
Seald Sweet LLC, Vero Beach, Florida

The effective date of the amended certificate is April 17, 2017, the date on which FCE's application to amend was deemed submitted.

Dated: July 24, 2017.

Joseph E. Flynn,

Director, Office of Trade and Economic Analysis, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 2017–15847 Filed 7–28–17; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Review of National Marine Sanctuaries and Marine National Monuments Designated or Expanded Since April 28, 2007; Notice of Opportunity for Public Comment

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; reopening of public comment period.

SUMMARY: On June 26, 2017, NOAA published a notice in the **Federal Register** (82 FR 28827) to request comments to inform the review the Department of Commerce is conducting pursuant to Executive Order 13795—Implementing an America-First Offshore Energy Strategy, signed on April 28, 2017. The Department of Commerce is conducting a review of all designations and expansions of National Marine Sanctuaries and Marine National Monuments since April 28, 2007. The June 26, 2017, notice provides more information on the scope of the review, including a list of the eleven National Marine Sanctuaries and Marine National Monuments subject to the review. The Secretary of Commerce will use the review to inform the preparation of a report under Executive Order 13795, Sec. 4(b)(ii). This notice reopens the public comment period by an additional 15 days.

DATES: Written comments must be submitted no later than August 15, 2017.

ADDRESSES: You may submit comments, identified by docket ID NOAA–NOS–2017–0066 by either of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov//#!docketDetail;D=NOAA-NOS-2017-0066,* click the ''Comment Now!'' icon, complete the required fields and enter or attach your comments.
- *Mail:* E.O. 13795 Review, National Oceanic and Atmospheric Administration, Silver Spring Metro Campus Building 4 (SSMC4), Eleventh Floor, 1305 East-West Highway, Silver Spring, MD 20910.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NOAA. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (for example, name, address, etc.) voluntarily submitted by the commenter will be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. NOAA will accept anonymous comments (for electronic comments submitted through the Federal eRulemaking Portal, enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: William Douros, 831–647–1920, National Oceanic and Atmospheric Administration, Silver Spring Metro Campus Building 4 (SSMC4), Eleventh Floor, 1305 East-West Highway, Silver Spring, MD 20910.

Authority: Executive Order 13795.

Dated: July 25, 2017.

Nicole R. LeBoeuf,

Deputy Assistant Administrator For Ocean Services and Coastal Management.

[FR Doc. 2017–16012 Filed 7–28–17; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0658–XF568

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Highly Migratory Species Management Team (HMSMT) will hold a meeting, which is open to the public.

DATES: The HMSMT meeting will be on Tuesday, August 8, 2017 to Thursday, August 10, 2017. This meeting will start at 8:30 a.m. and continue until business is concluded on each day.

ADDRESSES: The meeting will be held in the Pacific Room at the Southwest Fisheries Science Center, 8901 La Jolla Shores Drive, La Jolla, CA 92037–1508; phone: (858) 546–7000.

Council address: Pacific Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Dr. Kit Dahl, Pacific Council; phone: (503) 820–2422.

SUPPLEMENTARY INFORMATION: The purpose of the HMSMT meeting is to respond to Council guidance from its June 2017 meeting on further development of a range of alternatives for authorizing a fishery using deep-set buoy gear. The HMSMT will provide an updated range of alternatives at the Council's September 2017 meeting. The Council is scheduled to adopt the range of alternatives for public review. The HMSMT may also discuss other HMS topics on the Council's September agenda. These topics include final action on Amendment 4 to the HMS Fishery Management Plan, international management issues, review of exempted fishing permit proposals to use deep-set buoy gear, and swordfish management project planning. Although not on the September Council meeting agenda, the HMSMT may also discuss updates to the HMS Stock Assessment and Fishery Evaluation document and HMS-related matters scheduled on future Council agendas.

Although nonemergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt at (503) 820–2411 at least 10 days prior to the meeting date.

Dated: July 26, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–16033 Filed 7–28–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF411

Taking of Marine Mammals Incidental to Specified Activities; Dismantling of the Original East Span of the San Francisco-Oakland Bay Bridge

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that the NMFS has issued an incidental harassment authorization (IHA) to the California Department of Transportation (CALTRANS) to take small numbers of six species of marine mammals, by harassment, incidental to the dismantling of the original East Span of the San Francisco-Oakland Bay Bridge (SFOBB) in the San Francisco Bay (SFB), California.

DATES: This IHA will be valid from September 1, 2017, through August 31, 2018.

FOR FURTHER INFORMATION CONTACT: Dale Youngkin, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of references cited in this document, may be obtained at *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term ''take'' means to harass, hunt, capture, kill, or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal stock in the wild by causing disruption of behavioral patterns including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

National Environmental Policy Act (NEPA)

NMFS prepared an Environmental Assessment (EA) for the take of marine mammals incidental to construction of the East Span of the SFOBB and made a Finding of No Significant Impact (FONSI) on November 4, 2003. Due to the modification of part of the construction project and the mitigation measures, NMFS reviewed additional information from CALTRANS regarding empirical measurements of pile driving noises for the smaller temporary piles without an air bubble curtain system and the use of vibratory pile driving. NMFS prepared a Supplemental Environmental Assessment (SEA) and analyzed the potential impacts to marine mammals that would result from the modification of the action. A FONSI was signed on August 5, 2009. In addition, for CALTRANS' Piers E4 and E5 demolition using controlled implosion, NMFS prepared an SEA and analyzed the potential impacts to marine mammals that would result from the modification. A FONSI was signed on September 3, 2015. The proposed activity and expected impacts remain within what was previously analyzed in the EA and SEAs. Therefore, no additional NEPA analysis is warranted. A copy of the SEA and FONSI is available at *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.* In case of problems accessing these documents, please call the contact listed above.

Summary of Request

On April 5, 2017, CALTRANS submitted a request to NMFS for an IHA to take marine mammals incidental to the dismantling of the original East Span of the SFOBB in the San Francisco Bay. On May 1, 2017, NMFS deemed the application adequate and complete. CALTRANS requested authorization for incidental take by harassment only and NMFS concurs that mortality is not expected to result from this activity. NMFS is proposing to issue an IHA that will authorize take by Level B harassment of Pacific harbor seal, California sea lion, northern elephant seal, northern fur seal, harbor porpoise, and bottlenose dolphin incidental to CALTRANS' activities. As described in the Overview section, previous IHAs have been issued to CALTRANS for similar activities, specifically for the use of mechanical dismantling and controlled blasts to implode piers of the original East Span of the SFOBB.

Description of the Specified Activity

Overview

CALTRANS proposes removal of the original East Span of the SFOBB by mechanical dismantling and by use of controlled charges to implode 13 piers (Piers E6–E18) into their open cellular chambers below the mudline. Activities associated with dismantling the original East Span may potentially result in incidental take of marine mammals due to the use of highly controlled charges to dismantle the marine foundations of the piers.

Several previous one-year IHAs have been issued to CALTRANS for pile driving/removal and construction of the new SFOBB East Span beginning in 2003. NMFS has issued 10 IHAs to CALTRANS for the SFOBB Project. The first five IHAs (2003, 2005, 2007, 2009, and 2011) addressed potential impacts associated with pile driving for the construction of the new East Span of the SFOBB. IHAs issued in 2013, 2014 and July 2015 addressed activities associated with both constructing the new East Span and dismantling the original East Span, specifically addressing vibratory pile driving, vibratory pile extraction/removal, attenuated impact pile driving, pile proof testing, and mechanical dismantling of temporary and permanent marine foundations. On September 9, 2015, NMFS issued an IHA to CALTRANS for incidental take associated with the demolition of Pier E3 of the original SFOBB by highly controlled explosives (80 FR 57584,

September 24, 2015). On September 30, 2016, NMFS issued an IHA authorizing the incidental take of marine mammals associated with both pile driving/removal and controlled implosion of Piers E4 and E5 (81 FR 67313). CALTRANS is requesting this IHA to continue dismantling the original East Span of the SFOBB using mechanical means as well as five to six implosion events to dismantle 13 piers (Piers E6–E18). CALTRANS does not anticipate any further in-water pile installation or pile removal for the SFOBB project, and is not requesting coverage under this IHA to conduct pile driving/removal activities.

A detailed description of the planned SFOBB dismantling project is provided in the **Federal Register** notice for the proposed IHA (82 FR 26063, June 6, 2017). Since that time, no changes have been made to the planned activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the description of the specific activity.

Comments and Responses

A notice of NMFS' proposal to issue an IHA to CALTRANS for the SFOBB project was published in the **Federal Register** on June 6, 2017 (82 FR 26063). That notice described, in detail, CALTRANS' activity, the marine mammal species that may be affected by the activity, and the anticipated effects on marine mammals. During the 30-day public comment period, NMFS received only one pertinent comment letter, from the Marine Mammal Commission (Commission).

Comment 1: The Commission concurs with NMFS' preliminary finding and recommends that NMFS issue the incidental harassment authorization, subject to the inclusion of the proposed mitigation, monitoring, and reporting measures.

Response: NMFS thanks the Commission for its comment and concurs with the Commission's recommendations. NMFS has issued the IHA to CALTRANS.

Description of Marine Mammals in the Area of the Specified Activity

A detailed description of the species likely to be affected by CALTRANS' SFOBB project, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence were provided in the **Federal Register** notice for the proposed IHA (82 FR 26063, June 6, 2017). Since that time, we are not aware of any changes in the status of those species and stocks that would affect our analyses or determinations; therefore, detailed descriptions are not provided here.

Table 1 lists all species and stocks with potential for occurrence in the San Francisco Bay and summarizes information related to the species or stock, including potential biological removal (PBR). Since the time of the proposed IHA, NMFS' SARs have been updated and finalized; however, there were no changes for the marine mammal species or stocks with potential for occurrence in the San Francisco Bay. For taxonomy, we follow Committee on Taxonomy (2016). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population. PBR is considered in concert with the known sources of ongoing anthropogenic mortality to assess the population-level effects of the anticipated mortality from a specific project (as described in NMFS's SARs). While no mortality is anticipated or authorized here, PBR information is included here as a gross indicator of the status of the species and other threats. Gray whales are a species that could potentially occur in the proposed project area but are not expected to have reasonable potential to be harassed by CALTRANS' SFOBB actions because they are unlikely to occur in the project area, as discussed above. This species is included in Table 1 but is omitted from further analysis. For species status, we provide information regarding U.S. regulatory status under the MMPA and ESA in Table 2.

TABLE 1—MARINE MAMMAL SPECIES POTENTIALLY PRESENT IN REGION OF ACTIVITY

Common name	Scientific name	ESA/MMPA status	Occurrence	Seasonality	Range	Stock abundance	Potential biological removal (PBR)
Harbor seal (CA stock)	*Phoca vitulina richardii*	NL/ND	Common	Year round	California	30,968	1,641
California sea lion (US stock)	*Zalophus californianus*	NL/ND	Common	Year round	California	296,750	9,200
Northern fur seal (CA stock)	*Callorhinus ursinus*	NL/ND	Rare	Year round	California	12,844	451
Northern elephant seal (CA breeding stock).	*Mirounga angustirostris*	NL/ND	Occasional	Spring & fall	California	179,000	4,882
Gray whale (Eastern north Pacific stock).	*Eschrichtius robustus*	NL*/ND	Rare	Spring & fall	Mexico to the U.S. Arctic Ocean.	20,990	624
Harbor porpoise (SF-Russian River stock).	*Phocoena phocoena*	NL/ND	Rare	Year round	California	9,886	66
Coastal Bottlenose dolphin (CA coastal stock).	*Tursiops truncatus*	NL/ND	Rare	Year round	California	323	2.4

NL = Not Listed; * The E. North Pacific population is not listed under the ESA.; ND = Not Depleted under the MMPA

Potential Effects of the Specified Activity on Marine Mammals and Their Habitat

The proposed CALTRANS SFOBB work using controlled charges (*i.e.,* implosion events) could adversely affect marine mammal species and stocks by exposing them to elevated noise levels in the vicinity of the activity area. Based on the nature of the other activities associated with the dismantling of Piers E6 through E18 of the original SFOBB East Span (mechanical dismantling) and measured sound levels from those activities during past monitoring associated with previous IHAs, NMFS does not expect activities other than implosion events to contribute to underwater noise levels such that take of marine mammals would potentially occur. The project would not result in permanent impacts to habitats used directly be marine mammals, nor impact food sources in any significant adverse way. The **Federal Register** notice for the proposed IHA (82 FR 26063, June 6, 2017) included a discussion of the effects of disturbance on marine mammals and their habitat. That information has not changed and is not repeated here. Please refer to the **Federal Register** notice for that information.

Estimated Take

This section provides a summary of the number of incidental takes authorized through the IHA, which informed both NMFS' consideration of whether the number of takes is ''small'' and the negligible impact determination.

Detailed information on how estimated take was calculated was provided in the Estimated Take section of the proposed IHA **Federal Register** notice (82 FR 26063, June 6, 2017; 26070–26074). Please refer to that **Federal Register** notice for that detailed information. Harassment is the only type of take expected to result from these activities. Authorized takes would be by Level B harassment only, in the form of disruption of behavioral patterns and/or TTS for individual marine mammals resulting from exposure to noise from the controlled implosions of 13 piers of the original East Span of the SFOBB. Based on the nature of activity and past results from controlled implosions of Piers E3, E4, and E5, Level A harassment is neither anticipated nor authorized.

A summary of the authorized number of takes by implosion of Piers E6 through E18 is provided in Table 2.

TABLE 2—SUMMARY OF AUTHORIZED TAKES OF MARINE MAMMALS FOR THE PIER E4 AND E5 IMPLOSIONS

Species	Level B behavioral	Level B TTS	Stock abundance	Percent take of population
Pacific harbor seal	66	48	30,968	0.37
California sea lion	18	12	296,750	0.01
Northern elephant seal	6	3	179,000	0.01
Northern fur seal	6	3	12,844	0.21
Harbor porpoise	18	9	9,886	0.09
Bottlenose dolphin	6	3	323	2.8
Total	120	78	.....	.....

Mitigation

In order to issue an incidental take authorization under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (the latter is not applicable for this action). NMFS' regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully weigh two primary factors: (1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat, which considers the nature of the potential adverse impact being mitigated (likelihood, scope, range), as well as the likelihood that the measure will be effective if implemented; and (2) the practicability of the measures for applicant implementation, which may consider such things as cost and impact on operations.

Mitigation Measures for Confined Implosion

For CALTRANS's proposed controlled implosions of Piers E6 through E18, CALTRANS will utilize the mitigation measures discussed below to minimize the potential impacts to marine mammals in the project vicinity, which were developed and successfully employed for previous controlled implosions of other piers of the original East Span of the SFOBB. The primary purposes of these mitigation measures are to minimize impacts by reducing sound levels from the activities and to monitor for marine mammals within designated exclusion zones and zones of influence (ZOI). Specific mitigation measures are:

Time Restriction

Implosion of Piers E6 through E18 will only be conducted during daylight hours, with enough time for pre and post implosion monitoring during daylight hours. Implosion events will also only be conducted during periods with good visibility when the largest exclusion zone can be visually monitored. In addition, to minimize impacts on biological resources, implosion events will be conducted at slack tides between September and November.

Installation of Blast Attenuation System (BAS)

Prior to the demolition of Piers E6 through E18, CALTRANS will install a Blast Attenuation System (BAS) as described above to reduce the noise and shockwave from the implosion.

Establishment of Level A Exclusion Zone

CALTRANS will establish marine mammal exclusion zones (MMEZ) for both the mortality and Level A harassment zone (including permanent threshold shift (PTS), GI track injury, and slight lung injury) using the criteria threshold that extends out the furthest distance (refer to Table 3). As an additional conservative measure to ensure that no marine mammals are taken by Level A harassment, the field-implemented MMEZ will be 20 percent larger than the calculated distances to threshold criteria.

TABLE 3—THRESHOLD DISTANCES (FEET (METERS)) CALCULATED FOR EACH IMPLOSION SCENARIO

Group	Species	Level B harassment		Level A harassment	Serious injury		Mortality (ft (m))
		Behavioral (ft (m))	TTS (pk/SEL_{cum}) (ft (m))	PTS (pk/SEL_{cum}) (ft (m))	GI tract (ft (m))	Slight lung (ft (m))	
Implosion of Pier E6							
Mid-freq cetacean ...	Bottlenose dolphin	1,330 ft/(405m)	180ft/881ft (55m/57m).	98ft/256ft (30m/78m).	48ft (15m)	48ft (15 m)	<40ft (<12m).
High-freq cetacean	Harbor porpoise	12,567ft (3,830m) ..	3,127ft/8,358ft (953m/2,548m).	1,697ft/2,459ft (517m/750m).	48ft (15m)	48ft (15 m)	<40ft (<12m).
Phocidae	Harbor seal & northern elephant seal.	2,220ft (677m)	613ft/1,484ft (187m/452m).	332ft/443ft (101m/135m).	48ft (15m)	48ft (15 m)	<40ft (<12m).
Otariidae	California sea lion & northern fur seal.	554ft (169m)	147ft/367ft (45m/112m).	80ft/106ft (24m/48m).	48ft (15m)	48ft (15 m)	<40ft (<12m).
Implosion of Two 504-ft Span Piers							
Mid-freq cetacean ...	Bottlenose dolphin	1,055ft (322m)	166ft/685ft (51m/208m).	90ft/190ft (27m/58m).	48ft (15m)	<40ft (<12m) ...	<40ft (<12m).
High-freq cetacean	Harbor porpoise	10,300ft (3,139m) ..	2,882ft/6,800ft (878m/2,073m).	1,564ft/1,966ft (477m/599m).	48ft (15m)	<40ft (<12m) ...	<40ft (<12m).
Phocidae	Harbor seal & northern elephant seal.	1,790ft (546m)	565ft/1,186ft (172m/361m).	306ft/333ft (93m/101m).	48ft (15m)	<40ft (<12m) ...	<40ft (<12m).
Otariidae	California sea lion & northern fur seal.	421ft (128m)	136ft/274ft (41m/84m).	74ft/78ft (23m/24m)	48ft (15m)	<40ft (<12m) ...	<40ft (<12m).
Implosion of Two 288-ft Span Piers							
Mid-freq cetacean ...	Bottlenose dolphin	798ft (243m)	166ft/517ft (51m/158m).	90ft/126ft (27m/38m).	48ft (15m)	<40ft (<12m) ...	<40ft (<12m).
High-freq cetacean	Harbor porpoise	7,700ft (2,347m)	2,882ft/5,140ft (878m/1,567m).	1,564ft/1,493ft (477m/455m).	48ft (15m)	<40ft (<12m) ...	<40ft (<12m).
Phocidae	Harbor seal & northern elephant seal.	1,359ft (414m)	565ft/900ft (172m/274m).	306ft/232ft (93m/71m).	48ft (15m)	<40ft (<12m) ...	<40ft (<12m).
Otariidae	California sea lion & northern fur seal.	304ft (93m)	136ft/185ft (41m/56m).	74ft/52ft (23m/16m)	48ft (15m)	<40ft (<12m) ...	<40ft (<12m).
Implosion of Three 288-ft Span Piers							
Mid-freq cetacean ...	Bottlenose dolphin	1,000ft (305m)	166ft/629ft (51m/192m).	90ft/132ft (27m/40m).	48ft (15m)	<40ft (<12m) ...	<40ft (<12m).
High-freq cetacean	Harbor porpoise	9,403ft (2,866m)	2,882ft/5,900ft (878m/1,798m).	1,564ft/1,722ft (477m/525m).	48ft (15m)	<40ft (<12m) ...	<40ft (<12m).
Phocidae	Harbor seal & northern elephant seal.	1,580ft (482m)	565ft/1,045ft (172m/319m).	306ft/258ft (93m/79m).	48ft (15m)	<40ft (<12m) ...	<40ft (<12m).
Otariidae	California sea lion & northern fur seal.	339ft (103m)	136ft/201ft (41m/61m).	74ft/52ft (23m/16m)	48ft (15m)	<40ft (<12m) ...	<40ft (<12m).
Implosion of Four 288-ft Span Piers							
Mid-freq cetacean ...	Bottlenose dolphin	1,000ft (305m)	166ft/629ft (51m/192m).	90ft/132ft (27m/40m).	48ft (15m)	<40ft (<12m) ...	<40ft (<12m).
High-freq cetacean	Harbor porpoise	9,935ft (3,028m)	2,882ft/6,590ft (878m/2,009m).	1,564ft/1,917ft (477m/584m).	48ft (15m)	<40ft (<12m) ...	<40ft (<12m).
Phocidae	Harbor seal & northern elephant seal.	1,730ft (527m)	565ft/1,135ft (172m/346m).	306ft/264ft (93m/80m).	48ft (15m)	<40ft (<12m) ...	<40ft (<12m).
Otariidae	California sea lion & northern fur seal.	349ft (106m)	136ft/204ft (41m/62m).	74ft/52ft (23m/16m)	48ft (15m)	<40ft (<12m) ...	<40ft (<12m).

The isopleths for PTS for phocids (harbor seal and elephant seal) cover the entire area for both Level A harassment and mortality for all pinnipeds (including California sea lions and northern fur seals), as well as bottlenose dolphins. Therefore, the pinniped and dolphin exclusion zone will be established at the radial distance to the phocid PTS Level A harassment threshold plus an additional 20 percent conservative factor. The harbor porpoise exclusion zone will be established at the radial distance to the high-frequency cetacean PTS Level A harassment threshold plus an additional 20 percent conservative factor (see Table 23 and Figures 12–14 and 17–21 of the IHA application). These MMEZs will be monitored by marine mammal observers (MMOs), and if any marine mammals are observed within the MMEZs, the implosion will be delayed until the animal leaves the area or at least 15 minutes have passed since the last observation of pinnipeds and small cetaceans and at least 30 minutes have passed since the last observation of bottlenose dolphins.

Establishment of Level B Behavioral Harassment and Temporary Hearing Threshold Shift (TTS) Monitoring Zones

Marine mammal monitoring zones will be established for both behavioral response and temporary threshold shift (TTS) (Level B harassment). Hydroacoustic monitoring results from the implosions of Piers E3, E4, and E5

were used to calculate distances to these thresholds for the implosions of Piers E6 through E18 (see Chapter 6 and Tables 9 to 18 of the IHA application). As a conservative measure, the field-implemented behavioral response and TTS monitoring zones will be 20 percent larger than the calculated distances to threshold criteria shown in Tables 9 to 18 of the IHA application.

The isopleths for Level B harassment to phocids (harbor seals and elephant seals) for all pier implosion scenarios cover the entire area for Level B harassment to all pinnipeds including otariids (California sea lions and fur seals) as well as bottlenose dolphins. Therefore, the pinniped and dolphin Level B harassment monitoring zones for each pier implosion scenario will be established at the radial distance to the phocid Level B harassment threshold plus an additional 20 percent conservative factor (see Tables 24 and 25 and Figures 12–16 of the IHA application).

Communication

All MMOs will be equipped with mobile phones and a VHF radio as a backup. One person will be designated as the Lead MMO and will be in constant contact with the Resident Engineer on site and the blasting crew. The Lead MMO will coordinate marine mammal sightings with the other MMOs. MMOs will contact the other MMOs when a sighting is made within the exclusion zone or near the exclusion zone so that the MMOs within overlapping areas of responsibility can continue to track the animal and the Lead MMO is aware of the animal. If an animal has entered the exclusion zone or is near it within 30 minutes of blasting, the Lead MMO will notify the Resident Engineer and blasting crew. The Lead MMO will keep them informed of the disposition of the animal.

Mitigation Conclusions

NMFS has carefully evaluated the applicant's proposed mitigation measures and considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

- The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;
- The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and
- The practicability of the measure for applicant implementation.

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

(1) Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal);

(2) A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to received levels of activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only);

(3) A reduction in the number of times (total number or number at biologically important time or location) individuals would be exposed to received levels of activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only);

(4) A reduction in the intensity of exposures (either total number or number at biologically important time or location) to received levels of activities expected to result in the take of marine mammals (this goal may contribute to a, above, or to reducing the severity of harassment takes only);

(5) Avoidance or minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time; and/or

(6) For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on our evaluation of the applicant's proposed measures, as well as other measures considered by NMFS, NMFS has determined that the mitigation measures provide the means of effecting the least practicable impact on marine mammals species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth, requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for Incidental Take Authorizations (ITA) must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. Effective reporting is critical to both compliance as well as ensuring that the most value is obtained from the required monitoring. CALTRANS has proposed marine mammal monitoring measures as part of the IHA application found at *www.nmfs.noaa.gov/pr/permits/incidental.htm.*

Monitoring measures NMFS prescribes shall improve our understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, absence, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving, or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine animals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and/or
- Mitigation and monitoring effectiveness.

Monitoring Measures

As most elements of marine mammal monitoring plans for pile driving activities are similar to what would be required for underwater implosions, monitoring for impacts to marine mammals from the implosion activities

for Piers E3, E4, and E5 were based on the SFOBB pile driving monitoring protocol. Monitoring for the implosion events for Piers E6 through E18 will also be based on the SFOBB pile driving monitoring protocol and past implosion activities for Piers E3, E4, and E5. These monitoring plans include monitoring an exclusion zone and ZOIs for TTS and behavioral harassment described above as well as the following:

(1) Marine Mammal Observers

A minimum of 10 MMOs will be required during the controlled implosions of Piers E6 through E18 so that the MMEZ, Level B Harassment TTS and Behavioral ZOIs, and surrounding area can be monitored. Up to 15 MMOs will be required for implosion events involving multiple piers in order to monitor the full extent of these areas. One MMO will be designated as the Lead MMO and would receive updates from other MMOs on the presence or absence of marine mammals within the MMEZ and will notify the Environmental Compliance Manager of a cleared exclusion zone to the implosion(s).

(2) Monitoring Protocol

Implosions of Piers E6 through E18 will be conducted only during daylight hours and with enough time for pre and post-implosion monitoring during daylight hours, and with good visibility (*i.e.,* clear skies and no high winds). This work will be completed so that MMOs will be able to detect marine mammals within the exclusion zones and beyond. The Lead MMO will be in contact with other MMOs and if any marine mammals enter an exclusion zone within 30 minutes of blasting, the Lead MMO will notify the Environmental Compliance Manager that the implosion may need to be delayed. The Lead MMO will keep the Environmental Compliance Manager informed about the disposition of the animal. If the animal remains in the MMEZ, blasting will be delayed until it has left the exclusion zone. If the animal dives and is not seen again, blasting will be delayed at least 15 minutes for pinnipeds and small cetacean (harbor porpoise), and 30 minutes for bottlenose dolphin. After the implosion has occurred, the MMOs will continue to monitor the area for at least 60 minutes.

(3) Data Collection

Each MMO will record the observation position, start and end times of observations, and weather conditions (*i.e.,* sunny/cloudy, wind speed, fog, visibility). For each marine mammal sighting, the following will be recorded, if possible:

- Species;
- Number of animals (with or without pup/calf);
- Age class (pup/calf, juvenile, adult);
- Identifying marks or color (*e.g.,* scars, red pelage, damaged dorsal fin);
- Position relative to piers being imploded (distance and direction);
- Movement (direction and relative speed); and
- Behavior (*e.g.,* logging (resting at the surface), swimming, spy-hopping (raising above the water surface to view the area), foraging).

(4) Post-Implosion Survey

Although any injury or mortality from the implosions of Piers E6 through E18 is very unlikely, boat or shore surveys will be conducted daily for 3 days following the event, to determine whether any injured or stranded marine mammals are in the area. If an injured or dead animal is discovered during these surveys or by other means, the NMFS-designated stranding team will be contacted to pick up the animal. Veterinarians will treat the animal or will conduct a necropsy to attempt to determine whether it stranded because of the pier implosions.

Reporting Measures

CALTRANS is required to submit a draft monitoring report within 90 days after completion of the construction work or the expiration of the IHA, whichever comes first. This draft report will detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed. NMFS will have an opportunity to provide comments on the draft report within 30 days, and if NMFS has comments, CALTRANS will address the comments and submit a final report to NMFS within 30 days. If no comments are provided by NMFS after 30 days of receiving the report, the draft report will be considered final.

Marine Mammal Stranding Plan

Stranding plans for the pier implosions of Piers E3, E4, and E5 were prepared in cooperation with the local NMFS-designated marine mammal stranding, rescue, and rehabilitation center. An updated version of this plan will be implemented during implosions of Piers E6 through E18. Although avoidance and minimization measures likely will prevent any injuries, preparations will be made in the unlikely event that marine mammals are injured. Elements of the plan will include the following:

1. The stranding crew will prepare treatment areas at an NMFS-designated facility for cetaceans or pinnipeds that may be injured from the implosions. Preparation will include equipment to treat lung injuries, auditory testing equipment, dry and wet caged areas to hold animals, and operating rooms if surgical procedures are necessary;

2. A stranding crew and a veterinarian will be on call near the piers at the time of the implosions to quickly recover any injured marine mammals, provide emergency veterinary care, stabilize the animal's condition, and transport individuals to an NMFS-designated facility. If an injured or dead animal is found, NMFS (both the regional office and headquarters) will be notified immediately, even if the animal appears to be sick or injured from causes other than the implosions;

3. Post-implosion surveys will be conducted immediately after the event and over the following 3 days to determine whether any injured or dead marine mammals are in the area; and

4. Any veterinarian procedures, euthanasia, rehabilitation decisions, and time of release or disposition of the animal will be at the discretion of the NMFS-designated facility staff and the veterinarians treating the animals. Any necropsies to determine whether the injuries or death of an animal was the result of an implosion or other anthropogenic or natural causes will be conducted at an NMFS-designated facility by the stranding crew and veterinarians. The results will be communicated to both the CALTRANS and to NMFS as soon as possible, followed by a written report within a month.

Negligible Impact Analysis and Determinations

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of Level B harassment takes, alone, is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, *etc.*), the context of any responses (*e.g.,*

critical reproductive time or location, migration, *etc.*), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS' implementing regulations (54 FR 40338; September, 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, this introductory discussion of our analyses applies to all the species and stocks listed in Table 2, given that the anticipated effects of CALTRANS' SFOBB construction activities involving controlled implosions for Piers E6 through E18 on marine mammals are expected to be relatively similar in nature.

No injuries or mortalities are anticipated to occur as a result of CALTRANS' SFOBB activity associated with the controlled implosions to demolish Piers E6 through E18, and none are authorized. The relatively low marine mammal density and small Level A exclusion zones make injury takes of marine mammals unlikely, based on take calculation described above. In addition, the Level A exclusion zones will be thoroughly monitored before the proposed implosion, and detonation activity will be postponed if any marine mammal is sighted within the exclusion zone.

The takes that are anticipated and authorized are expected to be limited to short-term Level B harassment (behavioral responses and TTS). Due to implementation of mitigation measures and proven success in implementation of these measures as evidenced during previous SFOBB activities, more significant acute stress responses, serious injury or mortality, and more significant behavioral responses are not anticipated as a result of the proposed activities. Marine mammals (Pacific harbor seal, northern elephant seal, California sea lion, northern fur seal, harbor porpoise, and bottlenose dolphin) present in the vicinity of the action area and taken by Level B harassment would most likely show overt brief disturbance (startle reaction) and avoidance of the area from elevated noise level during the implosion noise. A few marine mammals could experience TTS if they occur within the Level B TTS ZOI. However, TTS is a temporary loss of hearing sensitivity when exposed to loud sound, and the hearing threshold is expected to recover completely within minutes to hours. Therefore, it is not considered an injury. In addition, even if an animal receives a TTS, the TTS would be a one-time event from a brief impulse noise (about 5 seconds), making it unlikely that the TTS would lead to PTS. Finally, there is no critical habitat or other biologically important areas in the vicinity of CALTRANS' proposed controlled implosion areas (Calambokidis *et al.,* 2015).

The project also is not expected to have significant adverse effects on affected marine mammals' habitat, as analyzed in detail in the ''Potential Effects of the Specified Activity on Marine Mammals and their Habitat'' section of the proposed IHA **Federal Register** notice (82 FR 26063, June 6, 2017; 26067–26070). There is no biologically important area in the vicinity of the SFOBB project area. The project activities would not permanently modify existing marine mammal habitat. The activities may kill some fish and cause other fish to leave the area temporarily, thus impacting marine mammals' foraging opportunities in a limited portion of the foraging range; but, because of the short duration of the activities and the relatively small area of the habitat that may be affected, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

Based on the best available information, the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS finds that the total marine mammal take from CALTRANS's SFOBB demolition via controlled implosions of Piers E6 through E18 will have a negligible impact on the affected marine mammal species or stocks.

Small Numbers

Table 2 presents the numbers of marine mammals that could be taken by Level B harassment incidental to CALTRAN's activities. Our analysis shows that less than 2.8 percent of the affected stocks could be taken by behavioral harassment and TTS (see Table 2 in this document). Therefore, the numbers of marine mammals estimated to be taken are small relative to total populations of the affected species or stocks. In addition, the mitigation and monitoring measures (described previously in this document) prescribed in the IHA are expected to reduce even further any potential disturbance to marine mammals.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, NMFS finds that small numbers of marine mammals will be taken relative to the populations of the affected species or stocks.

Impact on Availability of Affected Species for Taking for Subsistence Uses

There are no subsistence uses of marine mammals in the proposed project area; and, thus, no subsistence uses impacted by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act

NMFS has determined that issuance of the IHA will have no effect on listed marine mammals, as none are known to occur in the action area.

Authorization

NMFS has issued an IHA to CALTRANS for conducting SFOBB activities involving demolition via controlled implosion of Piers E6 through E18, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: July 24, 2017.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–15890 Filed 7–28–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Revised Non-Foreign Overseas per Diem Rates

AGENCY: Defense Travel Management Office, DoD.

ACTION: Notice of revised non-foreign overseas per diem rates.

SUMMARY: The Defense Travel Management Office is publishing Civilian Personnel Per Diem Bulletin Number 306. This bulletin lists revisions in the per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the

United States when applicable. Actual Expense Allowance changes announced in Bulletin Number 194 remain in effect. Bulletin Number 306 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

DATES: *The revised per diem rates go into effect* August 1, 2017.

FOR FURTHER INFORMATION CONTACT: Ms. Sonia Malik, 571–372–1276.

SUPPLEMENTARY INFORMATION: This document gives notice of revisions in per diem rates prescribed by the Defense Travel Management Office for non-foreign areas outside the contiguous United States. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of revisions in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about per diem rates, please contact your local travel office. Civilian Bulletin 306 includes updated rates for Hawaii, Midway Islands, and the Northern Mariana Islands.

Dated: July 26, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

Locality	Maximum lodging amount (A)	+	Meals and incidentals rate (B)	=	Maximum per diem rate (C)	Effective date
ALASKA:						
[OTHER]:						
01/01–12/31	120		88		208	03/01/2017
ADAK:						
10/01–04/30	150		60		210	03/01/2017
05/01–09/30	192		60		252	03/01/2017
ANCHORAGE [INCL NAV RES]:						
05/16–09/30	229		94		323	03/01/2017
10/01–05/15	199		94		293	03/01/2017
BARROW:						
05/01–09/30	238		89		327	03/01/2017
10/01–04/30	205		89		294	03/01/2017
BARTER ISLAND LRRS:						
01/01–12/31	120		88		208	03/01/2017
BETHEL:						
01/01–12/31	219		108		327	03/01/2017
BETTLES:						
01/01–12/31	175		70		245	03/01/2017
CAPE LISBURNE LRRS:						
01/01–12/31	120		88		208	03/01/2017
CAPE NEWENHAM LRRS:						
01/01–12/31	120		88		208	03/01/2017
CAPE ROMANZOF LRRS:						
01/01–12/31	120		88		208	03/01/2017
CLEAR AB:						
01/01–12/31	120		88		208	03/01/2017
COLD BAY LRRS:						
01/01–12/31	120		88		208	03/01/2017
COLDFOOT:						
01/01–12/31	165		70		235	10/01/2006
COPPER CENTER:						
05/15–09/15	169		84		253	03/01/2017
09/16–05/14	97		84		181	03/01/2017
CORDOVA:						
01/01–12/31	140		111		251	03/01/2017
CRAIG:						
04/01–09/30	254		78		332	03/01/2017
10/01–03/31	90		78		168	03/01/2017
DEADHORSE:						
01/01–12/31	170		51		221	03/01/2016
DELTA JUNCTION:						
05/01–09/30	169		78		247	03/01/2017
10/01–04/30	139		78		217	03/01/2017
DENALI NATIONAL PARK:						
06/01–08/31	185		86		271	03/01/2017
09/01–05/31	139		86		225	03/01/2017
DILLINGHAM:						
10/02–05/14	220		85		305	03/01/2017
05/15–10/01	350		85		435	03/01/2017
DUTCH HARBOR-UNALASKA:						
01/01–12/31	142		101		243	03/01/2017
EARECKSON AIR STATION:						
01/01–12/31	146		74		220	07/01/2016

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES—Continued

Locality	Maximum lodging amount (A)	+	Meals and incidentals rate (B)	=	Maximum per diem rate (C)	Effective date
EIELSON AFB:						
05/15–09/15	154		90		244	03/01/2017
09/16–05/14	75		90		165	03/01/2017
ELFIN COVE:						
01/01–12/31	275		86		361	03/01/2017
ELMENDORF AFB:						
05/16–09/30	229		94		323	03/01/2017
10/01–05/15	199		94		293	03/01/2017
FAIRBANKS:						
05/15–09/15	154		90		244	03/01/2017
09/16–05/14	75		90		165	03/01/2017
FOOTLOOSE:						
01/01–12/31	175		18		193	10/01/2002
FORT YUKON LRRS:						
01/01–12/31	120		88		208	03/01/2017
FT. GREELY:						
10/01–04/30	139		78		217	03/01/2017
05/01–09/30	169		78		247	03/01/2017
FT. RICHARDSON:						
05/16–09/30	229		94		323	03/01/2017
10/01–05/15	199		94		293	03/01/2017
FT. WAINWRIGHT:						
05/15–09/15	154		90		244	03/01/2017
09/16–05/14	75		90		165	03/01/2017
GAMBELL:						
01/01–12/31	133		51		184	03/01/2016
GLENNALLEN:						
05/15–09/15	169		84		253	03/01/2017
09/16–05/14	97		84		181	03/01/2017
HAINES:						
01/01–12/31	107		101		208	01/01/2011
HEALY:						
09/01–05/31	139		86		225	03/01/2017
06/01–08/31	185		86		271	03/01/2017
HOMER:						
05/01–09/30	200		70		270	03/01/2017
10/01–04/30	160		70		230	03/01/2017
JB ELMENDORF-RICHARDSON:						
05/16–09/30	229		94		323	03/01/2017
10/01–05/15	199		94		293	03/01/2017
JUNEAU:						
05/01–09/15	189		106		295	03/01/2017
09/16–04/30	169		106		275	03/01/2017
KAKTOVIK:						
01/01–12/31	165		86		251	10/01/2002
KAVIK CAMP:						
01/01–12/31	250		51		301	03/01/2016
KENAI-SOLDOTNA:						
05/01–09/30	179		103		282	03/01/2017
10/01–04/30	99		103		202	03/01/2017
KENNICOTT:						
01/01–12/31	295		89		384	03/01/2017
KETCHIKAN:						
05/01–09/01	243		96		339	03/01/2017
09/02–04/30	220		96		316	03/01/2017
KING SALMON:						
05/01–10/01	225		91		316	10/01/2002
10/02–04/30	125		81		206	10/01/2002
KING SALMON LRRS:						
01/01–12/31	120		88		208	03/01/2017
KLAWOCK:						
04/01–09/30	254		78		332	03/01/2017
10/01–03/31	90		78		168	03/01/2017
KODIAK:						
05/01–09/30	180		90		270	03/01/2017
10/01–04/30	152		90		242	03/01/2017

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES—Continued

Locality	Maximum lodging amount (A)	+	Meals and incidentals rate (B)	=	Maximum per diem rate (C)	Effective date
KOTZEBUE:						
01/01–12/31	299		98		397	03/01/2017
KULIS AGS:						
05/16–09/30	229		94		323	03/01/2017
10/01–05/15	199		94		293	03/01/2017
MCCARTHY:						
01/01–12/31	295		89		384	03/01/2017
MCGRATH:						
01/01–12/31	160		75		235	03/01/2017
MURPHY DOME:						
05/15–09/15	154		90		244	03/01/2017
09/16–05/14	75		90		165	03/01/2017
NOME:						
05/01–09/30	185		96		281	03/01/2017
10/01–04/30	165		96		261	03/01/2017
NOSC ANCHORAGE:						
05/16–09/30	229		94		323	03/01/2017
10/01–05/15	199		94		293	03/01/2017
NUIQSUT:						
01/01–12/31	234		51		285	03/01/2016
OLIKTOK LRRS:						
01/01–12/31	120		88		208	03/01/2017
PETERSBURG:						
01/01–12/31	120		88		208	03/01/2017
POINT BARROW LRRS:						
01/01–12/31	120		88		208	03/01/2017
POINT HOPE:						
01/01–12/31	175		81		256	03/01/2017
POINT LAY:						
01/01–12/31	295		51		346	03/01/2017
POINT LAY LRRS:						
01/01–12/31	295		51		346	03/01/2017
POINT LONELY LRRS:						
01/01–12/31	120		88		208	03/01/2017
PORT ALEXANDER:						
01/01–09/30	165		51		206	03/01/2017
10/01–12/31	155		51		206	03/01/2017
PORT ALSWORTH:						
01/01–12/31	135		88		233	10/01/2002
PRUDHOE BAY:						
01/01–12/31	170		51		221	03/01/2016
SELDOVIA:						
05/01–09/30	200		70		270	03/01/2017
10/01–04/30	160		70		230	03/01/2017
SEWARD:						
10/01–04/30	159		85		244	03/01/2017
05/01–0930	279		85		364	03/01/2017
SITKA-MT. EDGECUMBE:						
01/01–12/31	200		98		298	03/01/2016
SKAGWAY:						
05/01–09/01	243		96		339	03/01/2017
09/02–04/30	220		96		316	03/01/2017
SLANA:						
05/01–09/30	139		≤55		194	02/01/2005
10/01–04/30	99		55		154	02/01/2005
SPARREVOHN LRRS:						
01/01–12/31	120		88		208	03/01/2017
SPRUCE CAPE:						
05/01–09/30	180		90		270	03/01/2017
10/01–04/30	152		90		242	03/01/2017
ST. GEORGE:						
01/01–12/31	220		51		271	03/01/2016
TALKEETNA:						
01/01–12/31	100		89		189	10/01/2002
TANANA:						
05/01–09/30	185		96		281	03/01/2017

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES—Continued

Locality	Maximum lodging amount (A)	+	Meals and incidentals rate (B)	=	Maximum per diem rate (C)	Effective date
10/01–04/30	165		96		261	03/01/2017
TATALINA LRRS:						
01/01–12/31	120		88		208	03/01/2017
TIN CITY LRRS:						
01/01–12/31	120		88		208	03/01/2017
TOK:						
01/01–12/31	99		97		196	03/01/2017
VALDEZ:						
05/01–09/09	185		110		295	03/01/2017
09/10–04/30	127		110		237	03/01/2017
WAINWRIGHT:						
01/01–12/31	175		83		258	01/01/2011
WAKE ISLAND DIVERT AIRFIELD:						
01/01–12/31	120		88		208	03/01/2017
WASILLA:						
05/01–09/30	170		89		259	03/01/2017
10/01–04/30	90		89		179	03/01/2017
WRANGELL:						
09/02–04/30	220		96		316	03/01/2017
05/01–09/01	243		96		339	03/01/2017
YAKUTAT:						
01/01–12/31	105		94		199	01/01/2011
AMERICAN SAMOA:						
AMERICAN SAMOA:						
01/01–12/31	139		69		208	06/01/2015
PAGO PAGO:						
01/01–12/31	139		69		208	12/01/2015
GUAM:						
GUAM (INCL ALL MIL INSTAL):						
01/01–12/31	159		87		246	07/01/2015
JOINT REGION MARIANAS (ANDERSEN):						
01/01–12/31	159		87		246	07/01/2015
JOINT REGION MARIANAS (NAVAL BASE):						
01/01–12/31	159		87		246	07/01/2015
TAMUNING:						
01/01–12/31	159		87		246	12/01/2015
HAWAII:						
[OTHER]:						
01/01–12/31	199		117		316	08/01/2017
CAMP H M SMITH:						
01/01–12/31	177		138		315	08/01/2017
EASTPAC NAVAL COMP TELE AREA:						
01/01–12/31	177		138		315	08/01/2017
FT. DERUSSEY:						
01/01–12/31	177		138		315	08/01/2017
FT. SHAFTER:						
01/01–12/31	177		138		315	08/01/2017
HICKAM AFB:						
01/01–12/31	177		138		315	08/01/2017
HILO:						
01/01–12/31	199		177		316	08/01/2017
HONOLULU:						
01/01–12/31	177		138		315	08/01/2017
ISLE OF HAWAII: HILO						
01/01–12/31	199		117		316	08/01/2017
ISLE OF HAWAII: OTHER:						
03/24–12/17	189		161		350	08/01/2017
12/18–03/25	239		161		400	08/01/2017
ISLE OF KAUAI:						
01/01–12/31	325		135		460	04/01/2016
ISLE OF MAUI:						
01/01–12/31	269		160		429	08/01/2017
ISLE OF OAHU:						
01/01–12/31	177		138		315	08/01/2017
JB PEARL HARBOR-HICKAM:						
01/01–12/31	177		138		315	08/01/2017

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES—Continued

Locality	Maximum lodging amount (A)	+	Meals and incidentals rate (B)	=	Maximum per diem rate (C)	Effective date
KAPOLEI:						
01/01–12/31	177		138		315	08/01/2017
KEKAHA PACIFIC MISSILE RANGE FAC:						
01/01–12/31	325		135		460	04/01/2016
KILAUEA MILITARY CAMP:						
01/01–12/31	199		117		316	08/01/2017
LANAI:						
01/01–12/31	254		111		365	08/01/2017
LIHUE:						
01/01–12/31	325		135		460	04/01/2016
LUALUALEI NAVAL MAGAZINE:						
01/01–12/31	177		138		315	08/01/2017
MCB HAWAII:						
01/01–12/31	177		138		315	08/01/2017
MOLOKAI:						
01/01–12/31	176		115		291	08/01/2017
NOSC PEARL HARBOR:						
01/01–12/31	177		138		315	08/01/2017
PEARL HARBOR:						
01/01–12/31	177		138		315	08/01/2017
PMRF BARKING SANDS:						
01/01–12/31	325		135		460	10/01/2016
SCHOFIELD BARRACKS:						
01/01–12/31	177		138		315	08/01/2017
TRIPLER ARMY MEDICAL CENTER:						
01/01–12/31	177		138		315	08/01/2017
WAHIAWA NCTAMS PAC:						
01/01–12/31	177		138		315	08/01/2017
WHEELER ARMY AIRFIELD:						
01/01–12/31	177		138		315	08/01/2017
MIDWAY ISLANDS:						
MIDWAY ISLANDS:						
01/01–12/31	125		81		206	08/01/2017
NORTHERN MARIANA ISLANDS:						
[OTHER]:						
01/01–12/31	69		84		153	08/01/2017
ROTA:						
01/01–12/31	130		107		237	07/01/2015
SAIPAN:						
01/01–12/31	161		101		262	08/01/2017
TINIAN:						
01/01– 12/31	69		84		153	08/01/2017
PUERTO RICO:						
[OTHER]:						
01/01–12/31	109		112		221	06/01/2012
AGUADILLA:						
01/01–12/31	171		84		255	11/01/2015
BAYAMON:						
06/01–11/30	167		88		255	12/01/2015
12/01–05/31	195		88		283	12/01/2015
CAROLINA:						
06/01–11/30	167		88		255	12/01/2015
12/01–05/31	195		88		283	12/01/2015
CEIBA:						
01/01–12/31	139		92		231	10/01/2012
CULEBRA:						
01/01–12/31	150		98		248	03/01/2012
FAJARDO [INCL ROOSEVELT RDS NAVSTAT]:						
01/01–12/31	139		92		231	10/01/2012
FT. BUCHANAN [INCL GSA SVC CTR, GUAYNABO]:						
06/01–11/30	167		88		255	12/01/2015
12/01–05/31	195		88		283	12/01/2015
HUMACAO:						
01/01–12/31	139		92		231	10/01/2012
LUIS MUNOZ MARIN IAP AGS:						
06/01–11/30	167		88		255	12/01/2015

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES—Continued

Locality	Maximum lodging amount (A)	+	Meals and incidentals rate (B)	=	Maximum per diem rate (C)	Effective date
12/01–05/31	195		88		283	12/01/2015
LUQUILLO:						
01/01–12/31	139		92		231	10/01/2012
MAYAGUEZ:						
01/01–12/31	109		112		221	09/01/2010
PONCE:						
01/01–12/31	149		89		238	09/01/2012
RIO GRANDE:						
01/01–12/31	169		123		292	06/01/2012
SABANA SECA [INCL ALL MILITARY]:						
06/01–11/30	167		88		255	12/01/2015
12/01–05/31	195		88		283	12/01/2015
SAN JUAN & NAV RES STA:						
12/01–05/31	195		88		283	12/01/2015
06/01–11/30	167		88		255	12/01/2015
VIEQUES:						
01/01–12/31	175		95		270	03/01/2012
VIRGIN ISLANDS (U.S.):						
ST. CROIX:						
04/15–12/14	247		110		357	06/01/2015
12/15–04/14	299		116		415	06/01/2015
ST. JOHN:						
05/01–12/03	170		107		277	08/01/2015
12/04–04/30	230		113		343	08/01/2015
ST. THOMAS:						
04/15–12/15	249		110		359	03/01/2017
12/16–04/14	339		110		449	03/01/2017
WAKE ISLAND:						
WAKE ISLAND:						
01/01–12/31	129		70		199	07/01/2016

[FR Doc. 2017–16043 Filed 7–28–17; 8:45 am]

BILLING CODE 5001–06–P

DELAWARE RIVER BASIN COMMISSION

Notice of Public Hearing and Business Meeting August 16 and September 14, 2017

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, August 16, 2017 at the Washington Crossing Historic Park Visitor Center, 1112 River Road, Washington Crossing, Pennsylvania. A business meeting will be held the following month on Wednesday, September 13, 2017 at the Linksz Pavilion, Bucks County Community College, 275 Swamp Road, Newtown, Pennsylvania. The hearing and meeting are open to the public.

Public Hearing. The public hearing on August 16, 2017 will begin at 1:30 p.m. Hearing items will include draft dockets for withdrawals, discharges, and other water-related projects subject to the Commission's review.

The list of projects scheduled for hearing, including project descriptions, will be posted on the Commission's Web site, *www.drbc.net,* in a long form of this notice at least ten days before the hearing date. Any draft resolutions scheduled for hearing also will be posted at *www.drbc.net* ten or more days prior to the hearing.

Written comments on matters scheduled for hearing on August 16 will be accepted through 5:00 p.m. on August 21. Time permitting, an opportunity for Open Public Comment will be provided upon the conclusion of Commission business at the September 13 Business Meeting; in accordance with recent format changes, this opportunity will not be offered upon completion of the Public Hearing.

The public is advised to check the Commission's Web site periodically prior to the hearing date, as items scheduled for hearing may be postponed if additional time is deemed necessary to complete the Commission's review, and items may be added up to ten days prior to the hearing date. In reviewing docket descriptions, the public is also asked to be aware that project details commonly change in the course of the Commission's review, which is ongoing.

Public Meeting. The public business meeting on September 13, 2017 will begin at 10:30 a.m. and will include: Adoption of the Minutes of the Commission's June 14, 2017 Business Meeting, announcements of upcoming meetings and events, a report on hydrologic conditions, reports by the Executive Director and the Commission's General Counsel, and consideration of any items for which a hearing has been completed or is not required. The latter are expected to include resolutions: (1) Authorizing the Executive Director to enter into an agreement with the Wildlands Conservancy for project services associated with dam removals to be performed as mitigation for natural resource damages associated with the 2005 ash slurry spill from the PPL Martins Creek Steam Electric Station in Lower Mount Bethel Township, Pa.; (2) authorizing the Executive Director to establish a purchasing card (''P-Card'') system for making electronic payments

for certain Commission expenses; and (3) providing for replacement of the 1970's-era HVAC system at the Commission's West Trenton office building. After all scheduled business has been completed and as time allows, the Business Meeting will also include up to one hour of Open Public Comment.

There will be no opportunity for additional public comment for the record at the September 13 Business Meeting on items for which a hearing was completed on August 16 or a previous date. Commission consideration on September 13 of items for which the public hearing is closed may result in approval of the item (by docket or resolution) as proposed, approval with changes, denial, or deferral. When the Commissioners defer an action, they may announce an additional period for written comment on the item, with or without an additional hearing date, or they may take additional time to consider the input they have already received without requesting further public input. Any deferred items will be considered for action at a public meeting of the Commission on a future date.

Advance Sign-Up for Oral Comment. Individuals who wish to comment on the record during the public hearing on August 16 or to address the Commissioners informally during the Open Public Comment portion of the meeting on September 13 as time allows, are asked to sign-up in advance through EventBrite, the online registration process recently introduced by the Commission. Links to EventBrite for the Public Hearing and the Business Meeting are available at *drbc.net.* For assistance, please contact Ms. Paula Schmitt of the Commission staff, at *paula.schmitt@drbc.nj.gov.*

Addresses for Written Comment. Written comment on items scheduled for hearing may be made through SmartComment, the web-based comment system recently introduced by the Commission, a link to which is posted at *drbc.net.* Although use of SmartComment is strongly preferred, comments may also be delivered by hand at the public hearing; or by hand, U.S. Mail or private carrier to Commission Secretary, P.O. Box 7360, 25 Cosey Road, West Trenton, NJ 08628. For assistance, please contact Paula Schmitt at *paula.schmitt@drbc.nj.gov.*

Accommodations for Special Needs. Individuals in need of an accommodation as provided for in the Americans with Disabilities Act who wish to attend the informational meeting, conference session or hearings should contact the Commission Secretary directly at 609–883–9500 ext. 203 or through the Telecommunications Relay Services (TRS) at 711, to discuss how we can accommodate your needs.

Additional Information, Contacts. Additional public records relating to hearing items may be examined at the Commission's offices by appointment by contacting Carol Adamovic, 609–883–9500, ext. 249. For other questions concerning hearing items, please contact Judith Scharite, Project Review Section assistant at 609–883–9500, ext. 216.

Dated: July 25, 2017.

Pamela M. Bush,

Commission Secretary and Assistant General Counsel.

[FR Doc. 2017–16041 Filed 7–28–17; 8:45 am]

BILLING CODE 6360–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9964–99–Region 2]

Proposed CERCLA Cost Recovery Settlement for the Computer Circuits Superfund Site, Hauppauge, Suffolk County, New York

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), notice is hereby given by the U.S. Environmental Protection Agency (''EPA''), Region 2, of a proposed cost recovery settlement agreement pursuant to CERCLA, with 145 Marcus Blvd., Inc. (''Settling Party'') for the Computer Circuits Superfund Site (''Site''), located in Hauppauge, Suffolk County, New York.

DATES: Comments must be submitted on or before August 30, 2017.

ADDRESSES: The proposed settlement is available for public inspection at EPA Region 2 offices at 290 Broadway, New York, New York 10007–1866. Comments should reference the Computer Circuits Superfund Site, Hauppauge, Suffolk County, New York, Index No. II–CERCLA–02–2017–2017. To request a copy of the proposed settlement agreement, please contact the EPA employee identified below.

FOR FURTHER INFORMATION CONTACT: Henry Guzman, Attorney, Office of Regional Counsel, New York/Caribbean Superfund Branch, U.S. Environmental Protection Agency, 290 Broadway, 17th Floor, New York, NY 10007–1866. Email: *guzman.henry@epa.gov* Telephone: 212–637–3166.

SUPPLEMENTARY INFORMATION: The Settling Party agrees to pay EPA $261,000.00 in reimbursement of EPA's past response costs paid at or in connection with the Site.

The settlement includes a covenant by EPA not to sue or to take administrative action against the Settling Party pursuant to Section 107(a) of CERCLA, 42 U.S.C. 9607(a), with regard to the response costs related to the work at the Site enumerated in the settlement agreement. For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the settlement. EPA will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations that indicate that the proposed settlement is inappropriate, improper, or inadequate. EPA's response to any comments received will be available for public inspection at EPA Region 2, 290 Broadway, New York, New York 10007–1866.

Dated: July 5, 2017.

John Prince,

Acting Director, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region 2.

[FR Doc. 2017–16069 Filed 7–28–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10381—LandMark Bank of Florida Sarasota, Florida

Notice is hereby given that the Federal Deposit Insurance Corporation (FDIC) as Receiver for LandMark Bank of Florida, Sarasota, Florida (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed Receiver of LandMark Bank of Florida, Sarasota, Florida on July 22, 2011. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this notice. If any person

wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: July 26, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–16038 Filed 7–28–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10397—Citizens Bank of Northern California; Nevada City, California

Notice is hereby given that the Federal Deposit Insurance Corporation (''FDIC'') as Receiver for Citizens Bank of Northern California, Nevada City, California (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed receiver of Citizens Bank of Northern California on September 23, 2011. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this Notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this Notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: July 26, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–16067 Filed 7–28–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10395—The First National Bank of Florida Milton, Florida

Notice is hereby given that the Federal Deposit Insurance Corporation (FDIC) as Receiver for The First National Bank of Florida, Milton, Florida (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed Receiver of The First National Bank of Florida, Milton, Florida on September 9, 2011. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: July 26, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–16039 Filed 7–28–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL HOUSING FINANCE AGENCY

[No. 2017–N–07]

Proposed Collection; Comment Request

AGENCY: Federal Housing Finance Agency.

ACTION: 30-Day notice of submission of information collection for approval from Office of Management and Budget.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA), the Federal Housing Finance Agency (FHFA or the Agency) is seeking public comments concerning an information collection known as the ''Monthly Survey of Rates and Terms on Conventional 1-Family Nonfarm Mortgage Loans (MIRS),'' which has been assigned control number 2590–0004 by the Office of Management and Budget (OMB). FHFA intends to submit the information collection to OMB for review and approval of a three-year extension of the control number, which is due to expire on July 31, 2017.

DATES: Interested persons may submit comments on or before August 30, 2017.

ADDRESSES: Submit comments to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for the Federal Housing Finance Agency, Washington, DC 20503, Fax: (202) 395–3047, Email: *OIRA_submission@omb.eop.gov.* Please also submit comments to FHFA, identified by ''Proposed Collection; Comment Request: 'Monthly Survey of Rates and Terms on Conventional 1-Family Nonfarm Mortgage Loans (MIRS), (No. 2017–N–07)' '' by any of the following methods:

- *Agency Web site: www.fhfa.gov/open-for-comment-or-input.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comment to the *Federal eRulemaking Portal,* please also send it by *email* to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by the agency.
- *Mail/Hand Delivery:* Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street SW., Washington, DC 20219, ATTENTION: Proposed Collection; Comment Request: ''Monthly Survey of Rates and Terms on Conventional 1-Family Nonfarm Mortgage Loans (MIRS), (No. 2017–N–07)''.

We will post all public comments we receive without change, including any

personal information you provide, such as your name and address, email address, and telephone number, on the FHFA Web site at *http://www.fhfa.gov.* In addition, copies of all comments received will be available for examination by the public on business days between the hours of 10 a.m. and 3 p.m., at the Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street SW., Washington, DC 20219. To make an appointment to inspect comments, please call the Office of General Counsel at (202) 649–3804.

FOR FURTHER INFORMATION CONTACT: David L. Roderer, Senior Financial Analyst, *David.L.Roderer@fhfa.gov,* (202) 649–3206; or Eric Raudenbush, Associate General Counsel, *Eric.Raudenbush@fhfa.gov,* (202) 649–3084 (these are not toll-free numbers); Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20219. The Telecommunications Device for the Hearing Impaired is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

A. Need for and Use of the Information Collection

FHFA's Monthly Survey of Rates and Terms on Conventional 1-Family Nonfarm Mortgage Loans, commonly referred to as the ''Monthly Interest Rate Survey'' or ''MIRS,'' is a monthly survey of mortgage lenders that solicits information on the terms and conditions on all conventional, single-family, fully amortized, purchase-money mortgage loans closed during the last five working days of the preceding month. The MIRS collects monthly information on interest rates, loan terms, and house prices by property type (*i.e.,* new or previously occupied), by loan type (*i.e.,* fixed- or adjustable-rate), and by lender type (*i.e.,* mortgage companies, savings associations, commercial banks, and savings banks), as well as information on 15-year and 30-year fixed-rate loans. In addition, the survey collects quarterly information on conventional loans by major metropolitan area and by Federal Home Loan Bank district. The MIRS does not collect information on loans insured by the Federal Housing Administration (FHA) or guaranteed by the Veterans Administration (VA), loans secured by multifamily property or manufactured housing, or loans created by refinancing another mortgage. The MIRS is one of the most timely and comprehensive sources of information on conventional mortgage rates and terms in the United States.

The MIRS originated with one of FHFA's predecessor agencies, the former Federal Home Loan Bank Board (FHLBB), in the 1960s and was conducted by the former Federal Housing Finance Board from 1989 through 2008. Data collected through the MIRS was used to derive the FHLBB's National Average Contract Mortgage Rate for the Purchase of Previously Occupied Homes by Combined Lenders (ARM Index), which was used by lenders to set mortgage rates on adjustable rate mortgages (ARMs). For a period of years, Fannie Mae and Freddie Mac were required by statute to use MIRS data in making annual adjustments to their conforming loan limits.

Since 2008, FHFA has continued to conduct the MIRS and to produce the ARM Index.[1] For various reasons, the number of loans reported to MIRS has fallen dramatically over the long term, which has resulted in the data sample sizes becoming deficient.[2] Although the volume of loans reported has increased moderately over the last several years, FHFA possesses limited means to compel survey recipients to provide additional data. Despite this, the agency believes it has a legal obligation to continue to carry out the survey, and its results continue to be relied upon by many outside parties.

While adjustments in the conforming loan limits for Fannie Mae and Freddie Mac are no longer based solely on data collected through the MIRS, MIRS data remains one of the factors that FHFA is required to consider in assessing the national average one-family house price for purposes of making those adjustments.[3] A few lenders use FHFA's ARM Index, derived from MIRS data, to set interest rates on fixed rate loans. In addition, businesses, trade associations, and government agencies at both the federal and state level rely upon the MIRS data for various business and regulatory purposes. For example, economic policy makers have used the MIRS data to determine trends in the mortgage markets, including interest rates, down payments, terms to maturity, terms on ARMs, and initial fees and charges on mortgage loans. Other federal banking agencies, such as the Board of Governors of the Federal Reserve System and the Council of Economic Advisors, have used the MIRS results for research purposes. The Bureau of Economic Analysis of the U.S. Department of Commerce uses MIRS as a key component of some of the economic statistics it is responsible for tracking. In addition, statutes in several states and U.S. territories refer to, or rely upon, the MIRS or the ARM Index for various purposes.[4]

The OMB control number for this information collection is 2590–0004. The current clearance for the information collection expires on July 31, 2017.

B. Burden Estimate

The Agency received a total of 1,369 monthly MIRS data submissions from 45 unique survey respondents over the period 2014–2016, representing an average of 456.3 monthly submissions per year from all respondents. Based on that figure and the expectation that it may receive slightly fewer data submissions going forward as compared to the last three years, FHFA estimates that it will receive an average of 450 data submissions annually over the next three years.

Most MIRS respondents submit their monthly MIRS data electronically through FHFA's MIRS web interface. Several, primarily larger, respondents transmit an electronic data file to FHFA, which then uploads the data to the same web interface. A few respondents still elect to complete FHFA Form #075 and submit it by facsimile. FHFA believes that, on average, a respondent will spend 20 minutes transmitting each monthly MIRS data set.

Thus, FHFA estimates that the annualized hour burden on all respondents imposed by this information collection over the next three years will be 150 hours (450 submissions x 0.33 hours).

C. Comments Request

In accordance with the requirements of 5 CFR 1320.8(d), FHFA published a request for public comments regarding this information collection in the **Federal Register** on May 25, 2017.[5] The 60-day comment period closed on July 24, 2017. FHFA received one comment letter, from the Bureau of Economic Analysis of the U.S. Department of Commerce (BEA). In its letter, BEA states that it strongly supports FHFA's continued collection of data for the MIRS, noting that the data are ''crucial to key components of BEA's economic statistics.'' Specifically, BEA uses MIRS data to track contract rates of interest

[1] The MIRS and the ARM Index are described at 12 CFR 906.5.

[2] All publications of MIRS data include a note stating, ''The indices are based on a small monthly survey of mortgage lenders, which may not be representative. The sample is not a statistical sample but is rather a convenience sample.''

[3] *See* 12 U.S.C. 4542.

[4] *See, e.g.,* Cal. Civ. Code §§ 1916.7(b)(5)(A) and 1916.8(b)(1) (mortgage rates); Mich. Comp. Laws § 445.1621(d), 445.1624 (mortgage index rates); N.J. Rev. Stat. 31:1–1(d) (interest rates); Wis. Stat. § 138.056(1)(a) (variable loan rates); V.I. Code Ann. tit. 11, § 951(b)(2) (legal rate of interest).

[5] *See* 82 FR 24127 (May 25, 2017).

and to estimate financial costs as part of its estimate of rental income of persons in the national income and product accounts (NIPAs). Indirectly, the data are used in the industry annual and quarterly Input-Output and GDP-by-Industry accounts in the estimates of gross output and value added for the real estate sub-sector.

In accordance with the requirements of 5 CFR 1320.10(a), FHFA is publishing this second notice to request comments regarding the following: (1) Whether the collection of information is necessary for the proper performance of FHFA functions, including whether the information has practical utility; (2) the accuracy of FHFA's estimates of the burdens of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments should be submitted in writing to both OMB and FHFA as instructed above in the COMMENTS section.

Dated: July 25, 2017.

Kevin Winkler,

Chief Information Officer, Federal Housing Finance Agency.

[FR Doc. 2017–16042 Filed 7–28–17; 8:45 am]

BILLING CODE 8070–01–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 August 15, 2017.

A. Federal Reserve Bank of Minneapolis (Brendan S. Murrin, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Scott H. Soderberg, Eden Prairie, Minnesota, individually and as trustee of the Elizabeth Ann Soderberg Irrevocable Trust dated 12/20/12, New Richmond, Wisconsin, and Elizabeth A. Soderberg, Minnetonka, Minnesota, individually and as trustee of the Scott H. Soderberg Irrevocable Trust dated 12/20/12, New Richmond, Wisconsin;* to acquire voting shares of One Corporation and thereby indirectly acquire shares of First National Community Bank, both of New Richmond, Wisconsin.

B. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Robert L. Lampert Trust No. 1 and the Andra V. Lampert Trust No. 1,* both of Beloit, Kansas; individually and part of the Lamber Family Group to retain voting shares of First National Bankshares of Beloit, Inc. (the company), and thereby indirectly retain shares of The First National Bank of Beloit, both of Beloit, Kansas. Additionally, the Larry D. Lampert Trust No. 1, Beloit, Kansas, to join the the Lampert Family Group, which acting in concert controls the company.

Board of Governors of the Federal Reserve System, July 26, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–16065 Filed 7–28–17; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 171 0052]

Baxter International Inc., Claris Lifesciences Limited, and Arjun Handa; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent orders—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before August 21, 2017.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write: ''In the Matter of Baxter International Inc., File No. 171–0052'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/baxterclarisconsent* by following the instructions on the web-based form. If you prefer to file your comment on paper, write ''In the Matter of Baxter International Inc., File No. 171–0052'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Kari Wallace (202–326–3085), Bureau of Competition, 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for July 20, 2017), on the World Wide Web, at *https://www.ftc.gov/news-events/commission-actions.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before August 21, 2017. Write ''In the Matter of Baxter International Inc., File No. 171–0052'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *https://www.ftc.gov/policy/public-comments.*

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/baxterclarisconsent* by following the instructions on the web-based form. If this Notice appears at *http://*

www.regulations.gov/#!home, you also may file a comment through that Web site.

If you prefer to file your comment on paper, write ''In the Matter of Baxter International Inc., File No. 171–0052'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible FTC Web site at *https://www.ftc.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC Web site—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC Web site, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC Web site to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before August 21, 2017. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Analysis of Agreement Containing Consent Orders To Aid Public Comment

I. Introduction

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Orders (''Consent Agreement'') from Baxter International Inc. (''Baxter'') and Claris Lifesciences Limited and Arjun Handa (collectively ''Claris'') that is designed to remedy the anticompetitive effects resulting from Baxter's acquisition of voting securities of certain entities and related assets from Claris. Under the terms of the proposed Consent Agreement, the parties are required to divest all of Claris's rights and assets related to fluconazole in saline intravenous bags and milrinone in dextrose intravenous bags to Renaissance Lakewood LLC (''Renaissance'').

The proposed Consent Agreement has been placed on the public record for thirty days for receipt of comments from interested persons. Comments received during this period will become part of the public record. After thirty days, the Commission will again evaluate the proposed Consent Agreement, along with any comments received, to make a final decision as to whether it should withdraw from the proposed Consent Agreement or make final the Decision and Order (''Order'').

Pursuant to agreements dated December 15, 2016, Baxter proposes to acquire voting securities of certain entities and related assets from Claris in two related transactions valued at approximately $625 million (the ''Proposed Acquisition''). The Commission alleges in its Complaint that the Proposed Acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, by lessening current competition in the market for fluconazole in saline intravenous bags and future competition in the market for milrinone in dextrose intravenous bags in the United States. The proposed Consent Agreement will remedy the alleged violations by preserving the competition that otherwise would be eliminated by the Proposed Acquisition.

II. The Products and Structure of the Markets

The Proposed Acquisition would reduce the current competition in the market for fluconazole in saline intravenous bags, and reduce future competition in the market for milrinone in dextrose intravenous bags.

Fluconazole is an antifungal agent used to treat a variety of fungal and yeast infections. Five companies currently sell generic intravenous fluconazole bags in the United States: Baxter, Claris, Pfizer Inc. (''Pfizer''), Sagent Pharmaceuticals, and Hikma Pharmaceuticals PLC (''Hikma''), but only four of these companies are significant competitors. Baxter and Claris have a combined estimated market share of nearly 60%.

Intravenous milrinone is a vasodilator that dilates the blood vessels, lowering blood pressure and allowing blood to flow more easily through the cardiovascular system. The product is used as a short-term treatment for life-threatening heart failure. Three companies—Baxter, Hikma, and Pfizer—currently sell the product in the United States. Claris is expected to enter this market shortly, once its pending application at the FDA is approved, a development expected to occur in the very near future.

III. Entry

Entry into the two markets at issue would not be timely, likely, or sufficient in magnitude, character, and scope to deter or counteract the anticompetitive effects of the Proposed Acquisition. The combination of drug development times and regulatory requirements, including approval by the United States Food and Drug Administration (''FDA''), is costly and lengthy.

IV. Effects

The Proposed Acquisition likely would cause significant anticompetitive harm to consumers by eliminating current competition between Baxter and Claris in the market for fluconazole in saline intravenous bags. Fluconazole in

saline intravenous bags is a commodity product, and prices typically are inversely correlated with the number of competitors in each market. As the number of suppliers offering a therapeutically equivalent drug increases, the price for that drug generally decreases due to the direct competition between the existing suppliers and each additional supplier. The Proposed Acquisition would combine two of only four significant companies selling the product, likely leading consumers to pay higher prices. Customers also have indicated that the presence of an independent Claris has allowed them to negotiate lower prices for fluconazole bags.

In addition, the Proposed Acquisition likely would cause significant anticompetitive harm to consumers by eliminating future competition that would otherwise have occurred if Baxter and Claris remained independent in the market for milrinone in dextrose intravenous bags. The evidence shows that the Proposed Acquisition, absent a remedy, would eliminate an additional independent entrant in the currently concentrated market for milrinone in dextrose intravenous bags, which would have enabled customers to negotiate lower prices. Customers and competitors have observed—and pricing data confirms—that the price of these pharmaceutical products decreases with new entry even after several other suppliers have entered the market. Thus, absent a remedy, the Proposed Acquisition likely will cause U.S. consumers to pay significantly higher prices for milrinone in dextrose intravenous bags in the future.

V. The Consent Agreement

The proposed Consent Agreement effectively remedies the competitive concerns raised by the acquisition in both markets at issue by requiring Claris to divest all its rights to fluconazole in saline intravenous bags and milrinone in dextrose intravenous bags to Renaissance. Renaissance is a pharmaceutical corporation that develops, manufacturers, sells, and distributes injectable pharmaceutical products in the United States. The parties must accomplish these divestitures no later than ten days after they consummate the Proposed Acquisition.

The Commission's goal in evaluating possible purchasers of divested assets is to maintain the competitive environment that existed prior to the Proposed Acquisition. If the Commission determines that Renaissance is not an acceptable acquirer, or that the manner of the divestitures is not acceptable, the proposed Order requires the parties to unwind the sale of rights to Renaissance and then divest the products to a Commission-approved acquirer within six months of the date the Order becomes final. The proposed Order further allows the Commission to appoint a trustee in the event the parties fail to divest the products as required.

The proposed Consent Agreement and Order contain several provisions to help ensure that the divestitures are successful. Baxter will supply Renaissance with fluconazole in saline intravenous bags and milrinone in dextrose intravenous bags for up to five years while the company transfers the manufacturing technology to Renaissance or its contract manufacturing designee. The proposed Order also requires Baxter to provide transitional services to Renaissance to assist it in establishing its manufacturing capabilities and securing all of the necessary FDA approvals. These transitional services include technical assistance to manufacture fluconazole in saline intravenous bags and milrinone in dextrose intravenous bags in substantially the same manner and quality employed or achieved by Claris. It also includes advice and training from knowledgeable employees of the parties. Under the proposed Consent Agreement, the Commission also will appoint an Interim Monitor.

The purpose of this analysis is to facilitate public comment on the proposed Consent Agreement, and it is not intended to constitute an official interpretation of the proposed Order or to modify its terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2017–16017 Filed 7–28–17; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0024; Docket 2017–0053; Sequence 2]

Information Collection; Federal Acquisition Regulation: Buy American, Trade Agreements, and Duty-Free Entry

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division (MVCB) will be submitting to the Office of Management and Budget (OMB) a request for revision and an extension to existing OMB clearances regarding the Buy American statute, Trade Agreements, and duty-free entry.

DATES: Submit comments on or before September 29, 2017.

ADDRESSES: Submit comments identified by Information Collection 9000–0024, Buy American, Trade Agreements, and Duty-Free Entry, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.*

Submit comments via the Federal eRulemaking portal by searching the OMB control number 9000–0024. Select the link ''Comment Now'' that corresponds with ''Information Collection 9000–0024, Buy American, Trade Agreements, and Duty-Free Entry. Follow the instructions provided on the screen. Please include your name, company name (if any), and ''Information Collection 9000–0024, Buy American, Trade Agreements, and Duty-Free Entry'' on your attached document.

- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Sosa/IC 9000–0024, Buy American, Trade Agreements, and Duty-Free Entry.

Instructions: Please submit comments only and cite Information Collection 9000–0024, Buy American, Trade Agreements, and Duty-Free Entry, in all correspondence related to this collection. Comments received generally will be posted, without change, to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Cecelia L. Davis, Procurement Analyst, Acquisition Policy Division, GSA (202) 219–0202 or email *cecelia.davis@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. This information collection requirement pertains to information that an offeror must submit in response to

the requirements of the provisions and clauses in FAR 52.225 that relate to the following:

* The Buy American statute (41 U.S.C. chapter 83 and E.O. 10582).

* The Trade Agreements Act (19 U.S.C. 2501–2515), including the World Trade Organization Government Procurement Agreement and various free trade agreements.

* The American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) (Recovery Act).

* Subchapters VIII and X of Chapter 98 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202).

a. 52.225–2, Buy American Certificate, as prescribed in FAR 25.1101 (a)(2), requires the offeror to identify in its proposal supplies that do not meet the definition of domestic end product. The Buy American statute does not apply to acquisitions of commercial information technology.

b. 52.225–4, Buy American—Free Trade Agreements—Israeli Trade Act Certificate, as prescribed in FAR 25.1101(b)(2)(i), requires separate listing of foreign products that are eligible under a trade agreement, and listing of all other foreign end products.

c. 52.225–6, Trade Agreements Certificate, as prescribed in FAR 25.1101(c)(2), requires the offeror to certify that all end products are either U.S.-made or designated country end products, except as listed in paragraph (b) of the provision. Offerors are not allowed to provide other than a U.S.-made or designated country end product, unless the requirement is waived.

d. *Construction provisions and clauses:*

- 52.225–9, Buy American–Construction Materials
- 52.225–10, Notice of Buy American Requirement—Construction Materials
- 52.225–11, Buy American—Construction Materials under Trade Agreements
- 52.225–12, Notice of Buy American Requirement—Construction Materials under Trade Agreements
- 52.225–21, Required Use of American Iron, Steel and Manufactured Goods—Buy American—Construction Materials
- 52.225–23, Required Use of American Iron, Steel and Manufactured Goods—Buy American—Construction Materials under Trade Agreements.

The listed provisions and clauses, as prescribed in FAR 25.1102(a) through (e), provide that an offeror/contractor requesting to use foreign construction material due to unreasonable cost of domestic construction material shall provide adequate information to permit evaluation of the request.

e. 52.225–8, Duty-Free Entry (formerly OMB clearance 9000–0022), as prescribed in FAR 25.1101(e), requires the contractor to notify the contracting officer when it purchases foreign supplies, in order to determine whether the supplies should be duty-free. In addition, all shipping documents and containers must specify certain information to assure the duty-free entry of the supplies.

B. Annual Reporting Burden

1. *Buy American and Trade Agreements-Supplies:*

FAR Clause 52.225–2, Buy American Certificate, requires the offeror to identify in its proposal supplies for use in the United States that do not meet the definition of domestic end product. The Buy American statute does not apply to acquisitions of commercial information technology.

Respondents: 3,306.
Responses per Respondent: 5.
Total Responses: 16,530.
Hours per Response: .25.
Total Burden Hours: 4,133.

FAR Clause 52.225–4, Buy American-Free Trade Agreements-Israeli Trade Act Certificate, requires separate listing of foreign products that are eligible under a trade agreement, and listing of all other foreign end products.

Respondents: 1,977.
Responses per Respondent: 5.
Total Responses: 9,885.
Hours per Response: .25.
Total Burden Hours: 2,471.

FAR Clause 52.225–6, Trade Agreements Certificate, requires the offeror to certify that all end products are either U.S.-made or designated country end products, except as listed in paragraph (b) of the provision. Offerors are not allowed to provide other than a U.S.-made or designated country end product, unless the requirement is waived.

Respondents: 397.
Responses per Respondent: 2.
Total Responses: 794.
Hours per Response: .25.
Total Burden Hours: 199.

2. Buy American and Trade Agreements—Construction provisions and clauses provide that an offeror/contractor requesting to use foreign construction material due to unreasonable cost of domestic construction material shall provide adequate information to permit evaluation of the request.

—52.225–9, Buy American—Construction Materials
—52.225–10, Notice of Buy American Requirements—Construction Materials
—52.225–11, Buy American—Construction Materials under Trade Agreements
—52.225–12, Notice of Buy American Requirements—Construction Materials under Trade Agreements
—52.225–21, Required Use of American Iron, Steel and Manufactured Goods—Buy American—Construction Materials
—52.225–23, Required Use of American Iron, Steel and Manufactured Goods—Buy American—Construction Materials under Trade Agreements

Respondents: 853.
Responses per Respondent: 2.3.
Total Responses: 1,990.
Hours per Response: 5.
Total Burden Hours: 10,045.

3. Duty-Free Entry. The clause at FAR 52.225–8, Duty-Free Entry (formerly OMB clearance 9000–0022), is included in solicitations and contracts for supplies that may be imported into the United States and for which duty-free entry may be obtained in accordance with FAR 25.903(a), if the value of the acquisition (1) exceeds the simplified acquisition threshold; or (2) does not exceed the simplified acquisition threshold, but the savings from waiving the duty is anticipated to be more than the administrative cost of waiving the duty. The contracting officer analyzes the information submitted by the contractor to determine whether or not supplies should enter the country duty-free.

Respondents: 1,330.
Responses per Respondent: 10.
Total Responses: 13,300.
Hours per Response: 0.5.
Total Burden Hours: 6,650.

4. Summary

Respondents: 7,863.
Responses per Respondent: 5.4.
Total Responses: 42,499.
Hours per Response: .5.
Total Burden Hours: 23,497.

C. *Public Comments:*

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the

information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755.

Please cite OMB Control No. 9000–0024, Buy American, Trade Agreements, and Duty-Free Entry in all correspondence.

Dated: July 25, 2017.

Lorin S. Curit,

Director, Federal Acquisition Policy Division, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2017–16022 Filed 7–28–17; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10110]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by September 29, 2017.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development Attention: Document Identifier/OMB Control Number _____Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10110 Manufacturer Submission of Average Sales Prices (ASP) Data for Medicare Part B Drugs

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Revision of a currently approved collection;

Title of Information Collection: Manufacturer Submission of Average Sales Prices (ASP) Data for Medicare Part B Drugs; *Use:* In accordance with Section 1847A of the Social Security Act (the Act), Medicare Part B covered drugs and biologicals not paid on a cost or prospective payment basis are paid based on the average sales price (ASP) of the drug or biological, beginning in Calendar Year (CY) 2005. The ASP data reporting requirements are specified in Section 1927 of the Act. The reported ASP data are used to establish the Medicare payment amounts. *Form Number:* CMS–10110 (OMB control number: 0938–0921); *Frequency:* Quarterly; *Affected Public:* Business or other For-profits; *Number of Respondents:* 180; *Total Annual Responses:* 720; *Total Annual Hours:* 9360. (For policy questions regarding this collection contact Felicia Eggleston at 410–786–9287.)

Dated: July 25, 2017.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2017–16016 Filed 7–28–17; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–7045–N]

Health Insurance Marketplace℠, Medicare, Medicaid, and Children's Health Insurance Programs; Announcement of the Renewal of the Charter for the Advisory Panel on Outreach and Education (APOE)

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

ACTION: Notice.

SUMMARY: This notice announces the renewal of the charter of the Advisory Panel on Outreach and Education APOE (the Panel) in accordance with the Federal Advisory Committee Act. The Panel advises and makes recommendations to the Secretary of the U.S. Department of Health and Human Services (HHS) and the Administrator of the Centers for Medicare & Medicaid

Services (CMS) on opportunities to enhance the effectiveness of consumer education strategies concerning the Health Insurance Marketplace℠, Medicare, Medicaid, and the Children's Health Insurance Program (CHIP). Additional information about the Panel is available on the Internet at: *http://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/APOE.html.* Press inquiries are handled through the CMS Press Office at (202) 690–6145.

FOR FURTHER INFORMATION CONTACT: Thomas Dudley, (410) 786–1442.

SUPPLEMENTARY INFORMATION:

I. Background

The Advisory Panel for Outreach and Education (APOE) (the Panel) is governed by the provisions of Federal Advisory Committee Act (FACA) (Pub. L. 92–463), as amended (5 U.S.C. appendix 2), which sets forth standards for the formation and use of federal advisory committees. The Panel is authorized by section 1114(f) of the Social Security Act (42 U.S.C. 1314(f)) and section 222 of the Public Health Service Act (42 U.S.C. 217a).

On January 21, 1999, the Secretary of the U.S. Department of Health and Human Services (HHS) (the Secretary) signed the charter establishing the Citizen's Advisory Panel on Medicare Education [1] (the predecessor to the APOE) to advise and make recommendations to the Secretary and the Administrator of the Centers for Medicare & Medicaid Services (CMS) on the effective implementation of national Medicare education programs, including with respect to the Medicare+Choice (M+C) program added by the Balanced Budget Act of 1997 (Pub. L. 105–33). (For more detailed information, see the February 17, 1999 **Federal Register** (64 FR 7899)).

The Medicare Modernization Act of 2003 (MMA) (Pub. L. 108–173) expanded the existing health plan options and benefits available under the M+C program and renamed it the Medicare Advantage (MA) program. CMS has substantial responsibilities to provide information to Medicare beneficiaries about the range of health plan options available and better tools to evaluate these options. Successful MA program implementation required CMS to consider views and policy input from a variety of private sector constituents and to develop a broad range of public-private partnerships.

In addition, Title I of the MMA authorized the Secretary and the Administrator of CMS (by delegation) to establish the Medicare prescription drug benefit. The drug benefit allows beneficiaries to obtain qualified prescription drug coverage. In order to effectively administer the MA program and the Medicare prescription drug benefit, CMS has substantial responsibilities to provide information to Medicare beneficiaries about the range of health plan options and benefits available and to develop better tools to evaluate these plans and benefits.

The Affordable Care Act (Patient Protection and Affordable Care Act, Public Law 111–148, and Health Care and Education Reconciliation Act of 2010, Public Law 111–152) expanded the availability of options for health care coverage and enacted a number of changes to Medicare as well as to Medicaid and the Children's Health Insurance Program (CHIP). Qualified individuals and qualified employers are now able to purchase private health insurance coverage through competitive marketplaces, called an Affordable Insurance Exchange (also called Health Insurance Marketplace℠,[2] or Marketplace℠). In order to effectively implement and administer these changes, we must provide information to consumers, providers, and other stakeholders through education and outreach programs regarding how existing programs will change and the expanded range of health coverage options available, including private health insurance coverage through the Marketplace℠. The Panel allows us to consider a broad range of views and information from interested audiences in connection with this effort and to identify opportunities to enhance the effectiveness of education strategies concerning the Affordable Care Act.

The scope of this panel also includes advising on issues pertaining to the education of providers and stakeholders with respect to the Affordable Care Act and certain provisions of the Health Information Technology for Economic and Clinical Health (HITECH) Act enacted as part of the American Recovery and Reinvestment Act of 2009 (ARRA).

On January 21, 2011, the Panel's charter was renewed and the Panel was renamed the Advisory Panel for Outreach and Education.

II. Provisions of This Notice

Pursuant to the charter approved on January 19, 2017, the APOE was renewed. The APOE will advise the Department of Health and Human Services and CMS on developing and implementing education programs that support individuals enrolled in or eligible for Medicare, Medicaid, the CHIP, coverage through the Health Insurance Marketplace and other CMS programs about options for selecting health care coverage under these and other programs envisioned under health care reform to ensure improved access to quality care, including prevention services. The scope of this FACA group also includes advising on education of providers and stakeholders with respect to health care reform and certain provisions of the HITECH Act enacted as part of ARRA. The charter will terminate on January 19, 2019, unless renewed by appropriate action. The APOE was chartered under 42 U.S.C. 217a, section 222 of the Public Health Service Act, as amended. The APOE is governed by provisions of Public Law 92–463, as amended (5 U.S.C. appendix 2), which sets forth standards for the formation and use of advisory committees.

Pursuant to the renewed charter, the APOE will advise the Secretary of Health and Human Services and the CMS Administrator concerning optimal strategies for the following:

- Developing and implementing education and outreach programs for individuals enrolled in or eligible for Medicare, Medicaid, and CHIP or health coverage available through the Health Insurance Marketplace and other CMS programs.
- Enhancing the Federal government's effectiveness in informing the Medicare, Medicaid, CHIP or the Health Insurance Marketplace consumers, issuers, providers and stakeholders pursuant to education and outreach programs of issues regarding these programs, including the appropriate use of public-private partnerships to leverage the resources of the private sector in educating beneficiaries, providers, and stakeholders.
- Expanding outreach to vulnerable and underserved communities, including racial and ethnic minorities, in the context of Medicare, Medicaid, CHIP, and Health Insurance Marketplace education programs and other CMS programs as designated.
- Assembling and sharing an information base of ''best practices'' for helping consumers evaluate health coverage options.

[1] We note that the Citizen's Advisory Panel on Medicare Education is also referred to as the Advisory Panel on Medicare Education (65 FR 4617). The name was updated in the Second Amended Charter approved on July 24, 2000.

[2] Health Insurance Marketplace℠ and Marketplace℠ are service marks of the U.S. Department of Health & Human Services.

• Building and leveraging existing community infrastructures for information, counseling, and assistance.

• Drawing the program link between outreach and education, promoting consumer understanding of health care coverage choices, and facilitating consumer selection/enrollment, which in turn support the overarching goal of improved access to quality care, including preventive services, envisioned under the Affordable Care Act.

The current members of the Panel are: Kellan Baker, Associate Director, Center for American Progress; Robert Blancato, President, Matz, Blancato & Associates; Dale Blasier, Professor of Orthopaedic Surgery, Department of Orthopaedics, Arkansas Children's Hospital; Deborah Britt, Executive Director of Community & Public Relations, Piedmont Fayette Hospital; Deena Chisolm, Associate Professor of Pediatrics & Public Health, The Ohio State University, Nationwide Children's Hospital; Josephine DeLeon, Director, Anti-Poverty Initiatives, Catholic Charities of California; Robert Espinoza, Vice President of Policy, Paraprofessional Healthcare Institute; Louise Scherer Knight, Director, The Sidney Kimmel Comprehensive Cancer Center at Johns Hopkins; Roanne Osborne-Gaskin, M.D., Senior Medical Director, MDWise, Inc.; Cathy Phan, Outreach and Education Coordinator, Asian American Health Coalition DBA HOPE Clinic; Kamilah Pickett, Litigation Support, Independent Contractor; Brendan Riley, Outreach and Enrollment Coordinator, NC Community Health Center Association; Alvia Siddiqi, Medicaid Managed Care Community Network (MCCN) Medical Director, Advocate Physician Partners, Carla Smith, Executive Vice President, Healthcare Information and Management Systems Society (HIMSS); Tobin Van Ostern, Vice President and Co-Founder, Young Invincibles Advisors; and Paula Villescaz, Senior Consultant, Assembly Health Committee, California State Legislature.

III. Copies of the Charter

The Secretary's Charter for the APOE is available on the CMS Web site at: *https://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/Downloads/APOECharter2017.pdf* or you may obtain a copy of the charter by submitting a request to: Thomas Dudley, Designated Federal Official (DFO), Office of Communications, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mailstop S1 05–06, Baltimore, MD 21244 1850 or via email at *Thomas.Dudley@cms.hhs.gov.*

Dated: July 21, 2017.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2017–15960 Filed 7–28–17; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–4179]

Cardiac Troponin Assays; Public Workshop; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop; request for comments.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing the following public workshop entitled ''Cardiac Troponin Assays.'' The purpose of the workshop is to discuss the development of innovative troponin assays designed to aid in the diagnosis of myocardial infarction (MI) and additional clinical uses of these assays. The workshop is intended to enhance engagement with stakeholders to facilitate device development and to discuss scientific and regulatory challenges associated with the analytical and clinical validation methods for troponin assay devices. Public input and feedback gained through this workshop may aid in the development of science-based approaches to aid in the efficient development of innovative, safe and effective, troponin diagnostic assays, which may lead to better patient care.

DATES: The public workshop will be held on November 28, 2017, from 8:30 a.m. to 5 p.m. Submit either electronic or written comments on this public workshop by November 27, 2017. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

ADDRESSES: The public workshop will be held at FDA's White Oak Campus, 10903 New Hampshire Ave., Bldg. 31, Rm. 1503 (The Great Room), Silver Spring, MD 20993. Entrance for the public workshop participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For parking and security information, please refer to *http://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before November 27, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of November 27, 2017. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

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

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

Instructions: All submissions received must include the Docket No. FDA–2017–N–4179 for ''Cardiac Troponin Assays.'' Received comments, those filed in a timely manner (see **ADDRESSES**) will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov*

or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

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

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

FOR FURTHER INFORMATION CONTACT: Paula Caposino, Food and Drug Administration, Center for Devices and Radiological Health, 10903 New Hampshire Ave., Bldg. 66, Rm. 4644, Silver Spring, MD 20993, 301–796–6160, *Paula.Caposino@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Since first discovered, cardiac troponin has become increasingly valuable as a biomarker of MI. In 2007, the National Academy of Clinical Biochemistry Laboratory Medicine Practice Guidelines and the Joint European Society of Cardiology, American College of Cardiology Foundation, American Heart Association, and the World Heart Federation Task Force Guidelines recommended the use of cardiac troponin as a biomarker for the diagnosis of MI when used in conjunction with clinical evidence of myocardial ischemia (Refs. 1 and 2). Cardiac troponin has also been recommended in current clinical guidelines as a prognostic marker in patients with symptoms of acute coronary syndrome with respect to mortality, MI, or ischemic events. These recommendations solidified troponin's importance in MI diagnosis and triage; at the same time, they formalized an adjustment in the clinical cutoffs and changed the way troponin results were interpreted and used. There is a lot of interest in developing innovative troponin assays that aid in the diagnosis of MI and to support additional clinical uses of these assays. We are holding this public workshop to discuss several topics of interest that are important for the development of innovative cardiac troponin assays. The goal of the workshop is to enhance engagement with stakeholders concerning the development and validation of innovative troponin assay devices.

II. Topics for Discussion at the Public Workshop

This public workshop will consist of brief presentations providing information to frame the discussion, followed by interactive panel discussions. Following the presentations, a moderated discussion is planned to ask speakers and additional panelists to provide their individual perspectives. Topics for discussion include:

- Clinical study design considerations and challenges
- Subgroup differences for troponin's clinical use (*e.g.,* the need for sex-specific cutoffs)
- Reference range study design considerations and best practices for reference range study design and methods for calculating upper reference limits
- The use of deltas in the diagnosis of MI
- Point of care testing

In light of the changes to how troponin is used clinically, there is a need to explore and discuss troponin assay device development and evaluation. We are soliciting comments and feedback from stakeholders regarding additional topics for FDA to consider for discussion. These comments can be submitted to the docket prior to the meeting (see **ADDRESSES**). We anticipate that the comments and discussion at this public workshop will help facilitate the development of innovative troponin devices and lessen regulatory burden. The ultimate goal is to facilitate the availability of innovative, safe and effective troponin assay devices for patient care.

III. Participating in the Public Workshop

Registration: To register for the public workshop, please visit FDA's Medical Devices News & Events—Workshops & Conferences calendar at *http://www.fda.gov/MedicalDevices/NewsEvents/WorkshopsConferences/default.htm.* (Select this public workshop from the posted events list.) Please provide complete contact information for each attendee, including name, title, affiliation, address, email, and telephone.

Registration is free and based on space availability, with priority given to early registrants. Persons interested in attending this public workshop must register by November 17, 2017, by 4 p.m. Eastern Time. Early registration is recommended because seating is limited; therefore, FDA may limit the number of participants from each organization. Registrants will receive confirmation when they have been accepted. If time and space permit, onsite registration on the day of the public workshop will be provided beginning at 7:30 a.m. We will let registrants know if registration closes before the day of the public workshop.

If you need special accommodations due to a disability, please contact Susan Monahan, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 4321, Silver Spring, MD 20993–0002, 301–796–5661, email: *Susan.Monahan@fda.hhs.gov,* no later than November 14, 2017.

Requests for Oral Presentations: During online registration you may indicate if you wish to present during a public comment session, and which topic(s) you wish to address. We will do our best to accommodate requests to make public comments. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations, and request time for a joint presentation. Following the close of registration, we will determine the amount of time allotted to each presenter and the approximate time each oral presentation is to begin, and will select and notify participants by November 20, 2017. All requests to make oral presentations must be received by the close of registration on

November 17, 2017 by 4 p.m. If selected for presentation, any presentation materials must be emailed to Paula Caposino (see **FOR FURTHER INFORMATION CONTACT**) no later than November 21, 2017. No commercial or promotional material will be permitted to be presented or distributed at the public workshop.

Streaming Webcast of the public workshop: This public workshop will also be Webcast. The Webcast link will be available on the registration Web page after November 21, 2017. Organizations are requested to register all participants, but to view using one connection per location.

If you have never attended a Connect Pro event before, test your connection at *https://collaboration.fda.gov/common/help/en/support/meeting_test.htm.* To get a quick overview of the Connect Pro program, visit *http://www.adobe.com/go/connectpro_overview.* FDA has verified the Web site addresses in this document, as of the date this document publishes in the **Federal Register**, but Web sites are subject to change over time.

Transcripts: Please be advised that as soon as a transcript of the public workshop is available, it will be accessible at *https://www.regulations.gov.* It may be viewed at the Dockets Management Staff (see **ADDRESSES**). A link to the transcript will also be available approximately 45 days after the public workshop on the Internet at *http://www.fda.gov/MedicalDevices/NewsEvents/WorkshopsConferences/default.htm.* (Select this public workshop from the posted events list).

IV. References

The following references are on display in the Dockets Management Staff (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 *https://www.regulations.gov.*

1. ''National Academy of Clinical Biochemistry Laboratory Medicine Practice Guidelines: Clinical Characteristics and Utilization of Biochemical Markers in Acute Coronary Syndromes.'' *Circulation,* 2007; 115, 356–375.
2. ''Universal Definition of Myocardial Infarction.'' *Circulation,* 2007: 116, 2634–2653.

Dated: July 20, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–16007 Filed 7–28–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–0001]

Developing a Framework for Regulatory Use of Real-World Evidence; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing the following public workshop entitled ''Developing a Framework for Regulatory Use of Real-World Evidence.'' Convened by the Duke-Robert J. Margolis, MD, Center for Health Policy at Duke University and supported by a cooperative agreement with FDA, the purpose of the public workshop is to bring the stakeholder community together to discuss a variety of topics related to the use of real-world data (RWD) and real-world evidence (RWE) in drug development and regulatory decision making. Topics will include an update on FDA's activities to address the use of RWE in regulatory decisions and the development of a framework for tackling challenges related to RWE's regulatory acceptability. In addition, panelists will discuss opportunities to improve data development activities, study designs, and analytical methods used to create robust RWE.

DATES: The public workshop will be held on September 13, 2017, from 9 a.m. to 4:30 p.m., Eastern Time.

ADDRESSES: The public workshop will be held at the Conference Center at 1777 F Street NW., Washington, DC 20006. For additional travel and hotel information, please refer to the following Web site: *https://healthpolicy.duke.edu/events/public-workshop-developing-framework-regulatory-use-real-world-evidence.* There will also be a live webcast for those unable to attend the meeting in person (see *Streaming Webcast of Public Workshop*).

FOR FURTHER INFORMATION CONTACT: Kayla Garvin, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6314, Silver Spring, MD 20993, (301) 796–7578, *Kayla.Garvin@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

RWD (data relating to patient health status and/or the delivery of health care routinely collected from a variety of sources) and RWE (clinical evidence regarding the usage and potential benefits or risks of a drug derived from analysis of RWD) are increasingly being used by multiple stakeholders within the health care system. Payers may rely on RWD and RWE to refine formularies or assist in coverage decisions. Physicians and professional societies can utilize RWE to further tailor clinical practice guidelines and decision-support tools. Medical product developers can use RWE to further develop a product's benefit-risk profile, monitor postmarket safety and adverse events, or generate additional hypotheses for continued clinical development.

The 21st Century Cures Act, section 3022 (Pub. L. 114–255), enacted on December 13, 2016, directed FDA to establish a program to evaluate the potential use of RWE. The framework of the program was to include information describing the sources of RWE, the gaps in data collection, standards and methods for collection and analysis, and the priority areas and challenges.

To date, RWD and RWE have been used in very specific regulatory contexts. Some treatments for rare diseases, for example, have utilized RWE as part of the historical controls used for clinical study and, ultimately, regulatory submission. Postmarket safety surveillance has also relied heavily on RWD-generating networks. As part of exploring the opportunities for enhanced use of these types of data and evidence in additional regulatory decision-making contexts, FDA is seeking input on the opportunities and challenges in using RWE to support the approval of a new indication for an already approved drug, and to help support or satisfy postapproval study requirements.

This public workshop is being held to engage external stakeholders in discussions around the current state of RWE development and potential challenge areas for using RWE in regulatory decisions beyond postmarket safety surveillance.

II. Topics for Discussion at the Public Workshop

During the course of the public workshop, speakers and participants will cover a range of issues related to

the development of RWE and its applicability within specific regulatory decision-making contexts. This will include, but not be limited to, challenges related to RWD collection and quality, innovative methods for developing RWE from RWD, and promising areas for RWE pilot demonstrations.

III. Participating in the Public Workshop

Registration: To register for the public workshop, please visit the following Web site before September 12, 2017: *https://healthpolicy.duke.edu/events/public-workshop-developing-framework-regulatory-use-real-world-evidence.* There will be no onsite registration. Please provide complete contact information for each attendee, including name, title, affiliation, address, email, and telephone.

Registration is free and based on space availability, with priority given to early registrants. Early registration is recommended because seating is limited; therefore, FDA may limit the number of participants from each organization. A 1-hour lunch break is scheduled, but food will not be provided. There are multiple restaurants within walking distance of the Conference Center.

If you need special accommodations due to a disability, please contact Joanna Higgison at the Duke-Margolis Center for Health Policy, 908–432–4872, *joanna.higgison@duke.edu,* no later than September 6, 2017.

Streaming Webcast of the Public Workshop: This public workshop will also be webcast and archived video footage will be available at the Duke-Margolis Web site (*https://healthpolicy.duke.edu/events/public-workshop-developing-framework-regulatory-use-real-world-evidence*) following the workshop. Persons interested in viewing the live webcast must register online by September 12, 2017, at 5 p.m. Eastern Time (see *Registration*). Early registration is recommended because webcast connections are limited. Organizations are requested to register all participants, but to view using one connection per location whenever possible. Webcast participants will be sent technical system requirements in advance of the event. Prior to joining the streaming webcast of the public workshop, it is recommended that you review these technical system requirements.

FDA has verified the Web site addresses in this document, as of the date this document publishes in the **Federal Register**, but Web sites are subject to change over time.

Meeting Materials: All event materials will be provided to registered attendees via email prior to the workshop and publicly available at the Duke-Margolis Web site (*https://healthpolicy.duke.edu/events/public-workshop-developing-framework-regulatory-use-real-world-evidence*).

Transcripts: Please be advised that transcripts will not be available.

Dated: July 25, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–16021 Filed 7–28–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Full Committee and Population Health Subcommittee Meetings.

Dates and Times:

Monday, September 11, 2017: 9:00 a.m.–5:45 p.m.

Tuesday, September 12, 2017: 8:30 a.m.–5:00 p.m.

Wednesday, September 13, 2017: 8:45 a.m.–5:30 p.m.

Thursday, September 14, 2017: 8:30 a.m.–3:15 p.m.

Place: U.S. Department of Health and Human Services, Hubert H. Humphrey Building, 200 Independence Avenue SW., Room 705A, Washington, DC 20201.

Status: Open.

Purpose: At the September 11–12, 2017 hearing, the Population Health Subcommittee will focus on Next Generation Vital Statistics. The purpose of the hearing is to assess the current state of the national vital statistics system (NVSS) to address concerns regarding sustainability and viability of the system infrastructure. The focus will be on the system's capacity to provide timely, high quality, secure vital administrative and statistical data for identity establishment and protection, identification of trends in disease and epidemics, *e.g.,* the recent surge in opioid-related deaths, and a host of critical uses for research, finance, planning, public records and services.

At the September 13–14, 2017 full meeting, the Committee will hear presentations, hold discussions on several health data policy topics and begin to formulate its work plan for 2018. To inform the work plan, the Committee will be briefed by the Commission on Evidence-based Policymaking (CEP) regarding the release of its report and recommendations as well as hear from HHS leadership regarding data needs and gaps. A panel will be held to discuss the new topic ''Beyond HIPAA,'' an exploration of challenges that extend beyond HIPAA and the range of policy options that may be available to the Department related to privacy, security and access measures to protect individually identifiable health information in an environment of electronic networking and multiple uses of data. Additional discussions are planned on the Predictability Roadmap project in follow up to a Standards Subcommittee workshop focused on possible approaches to improve the predictability and improvements in the adoption and processes related to updating standards and operating rules for electronic administrative transactions (*e.g.* claims, eligibility, electronic funds transfer); and on terminology & vocabulary development, maintenance, and dissemination processes. The Committee also plans to finalize the update to its strategic plan and selection criteria for undertaking new Committee projects. The times and topics are subject to change. Please refer to the posted agenda for any updates.

Contact person for more information: Substantive program information may be obtained from Rebecca Hines, MHS, Executive Secretary, NCVHS, National Center for Health Statistics, Centers for Disease Control and Prevention, 3311 Toledo Road, Hyattsville, Maryland 20782, telephone (301) 458–4715. Summaries of meetings and a roster of Committee members are available on the home page of the NCVHS Web site: *http://www.ncvhs.hhs.gov/,* where further information including an agenda and instructions to access the audio broadcast of the meetings will also be posted. Should you require reasonable accommodation, please contact the CDC Office of Equal Employment Opportunity on (770) 488–3210 as soon as possible.

Dated: July 25, 2017.

Laina Bush,

Deputy Assistant Secretary for Planning and Evaluation, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 2017–16036 Filed 7–28–17; 8:45 am]

BILLING CODE 4151–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Deafness and Other Communication Disorders Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the 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 grant applications and/or contract proposals 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 and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Deafness and Other Communication Disorders Advisory Council.

Date: September 15, 2017.

Closed: 8:30 a.m. to 9:50 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, Conference Room 6, 31 Center Drive, Bethesda, MD 20892.

Open: 9:50 a.m. to 2:00 p.m.

Agenda: Staff reports on divisional, programmatic, and special activities.

Place: National Institutes of Health, Building 31, Conference Room 6, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Craig A. Jordan, Ph.D., Director, Division of Extramural Activities NIDCD, NIH, Room 8345, MSC 9670, 6001 Executive Blvd., Bethesda, MD 20892–9670, 301–496–8693, *jordanc@nidcd.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.nidcd.nih.gov/about/Pages/Advisory-Groups-and-Review-Committees.aspx,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: July 25, 2017.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–16006 Filed 7–28–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; 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 Heart, Lung, and Blood Institute Special Emphasis Panel, Perinatal Stroke.

Date: August 22, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Susan Wohler Sunnarborg, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA National, Heart, Lung, and Blood Institute 6701 Rockledge Drive, Room 7182, Bethesda, MD 20892 *susan.sunnarborg@nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, NIH Regenerative Medicine 2017.

Date: August 23, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The William F. Bolger Center 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: Tony L Creazzo, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA National Heart, Lung, and Blood Institute 6701 Rockledge Drive, Room 7180, Bethesda, MD 20892–7924, 301–827–7913, *creazzotl@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: July 25, 2017.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–16005 Filed 7–28–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the combined meeting on August 11, 2017, of the Substance Abuse and Mental Health Services Administration's (SAMHSA) four National Advisory Councils: The SAMHSA National Advisory Council (NAC), the Center for Mental Health Services NAC, the Center for Substance Abuse Prevention NAC, the Center for Substance Abuse Treatment NAC; and the two SAMHSA Advisory Committees: Advisory Committee for Women's Services (ACWS) and the Tribal Technical Advisory Committee (TTAC).

SAMHSA's National Advisory Councils were established to advise the Secretary, Department of Health and Human Services (HHS); the Deputy Assistant Secretary for Mental Health and Substance Use, SAMHSA; and SAMHSA's Center Directors concerning matters relating to the activities carried out by and through the Centers and the policies respecting such activities.

Under Section 501 of the Public Health Service Act, the ACWS is statutorily mandated to advise the Deputy Assistant Secretary for Mental Health and Substance Use, SAMHSA, and the Associate Administrator for Women's Services on appropriate activities to be undertaken by SAMHSA and its Centers with respect to women's substance abuse and mental health services.

Pursuant to Presidential Executive Order No. 13175, November 6, 2000, and the Presidential Memorandum of

September 23, 2004, SAMHSA established the TTAC for working with Federally-recognized Tribes to enhance the government-to-government relationship, and honor Federal trust responsibilities and obligations to Tribes and American Indian and Alaska Natives. The SAMHSA TTAC serves as an advisory body to SAMHSA.

The theme for the August 11, 2017 combined meeting is spirituality and resiliency. It will include remarks from the Acting Deputy Assistant Secretary for Mental Health and Substance Abuse, and a report on SAMHSA's priorities and updates by the Centers and Office Directors.

The meeting is open to the public and will be held at the Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Rockville, MD, 20857. Attendance by the public will be limited to space available. Interested persons may present data, information, or views orally or in writing, on issues pending before the Council. Written submissions should be forwarded to the contact person by one week prior to the meeting. Oral presentations from the public will be scheduled at the conclusion of the meeting. Individuals interested in making oral presentations are encouraged to notify the contact by one week prior to the meeting. Five minutes will be allotted for each presentation. The meeting may be accessed via telephone and web conferencing will be available. To attend on site; obtain the call-in number, access code, and/or web access link; submit written or brief oral comments; or request special accommodations for persons with disabilities, please register on-line at: *http://nac.samhsa.gov/Registration/meetingsRegistration.aspx,* or communicate with SAMHSA's Committee Management Officer, CDR Carlos Castillo (see contact information below).

Meeting information and a roster of Council members may be obtained either by accessing the SAMHSA Council's Web site at *http://www.samhsa.gov/about-us/advisory-councils/* or by contacting CDR Castillo. Substantive program information may be obtained after the meeting by accessing the SAMHSA Council's Web site, *http://nac.samhsa.gov/,* or by contacting CDR Castillo.

Council Names: Substance Abuse and Mental Health Services Administration, National Advisory Council, Center for Mental Health Services National Advisory Council, Center for Substance Abuse Prevention National Advisory Council, Center for Substance Abuse Treatment National Advisory Council, Advisory Committee for Women's Services, Tribal Technical Advisory Committee.

Date/Time/Type: August 11, 2017, 1:00 p.m. to 3:30 p.m. EDT, Open

Place: Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Rockville, Maryland 20857.

Contact: CDR Carlos Castillo, Committee Management Officer and Designated Federal Official, SAMHSA National Advisory Council, Room 18E77A, 5600 Fishers Lane, Rockville, Maryland 20857 (mail), Telephone: (240) 276–2787, Email: *carlos.castillo@samhsa.hhs.gov.*

Carlos R. Castillo,

Committee Management Officer, SAMHSA.

[FR Doc. 2017–15990 Filed 7–28–17; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5997–N–26]

30-Day Notice of Proposed Information Collection: Lender Qualifications for Multifamily Accelerated Processing (MAP) Guide

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD 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 30 days of public comment.

DATES: *Comments Due Date:* August 30, 2017.

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: Inez C. Downs, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email *Inez.C.Downs@hud.gov,* or telephone 202–402–8046. 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. Downs.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on January 31, 2017 at 82 FR 8838.

A. Overview of Information Collection

Title of Information Collection: Lender Qualifications for Multifamily Accelerated Processing (MAP) Guide.

OMB Approval Number: 2502–0541.

Type of Request: Revision of currently approved.

Form Number: 4430.G.

Description of the need for the information and proposed use: The Multifamily Accelerated Processing Guide, January 2016 is being renewed by the Department. The MAP Guide is a procedural guide that permits approved Federal Housing Administration (FHA) Lenders to prepare, process, and submit loan applications for FHA multifamily mortgage insurance.

Respondents: (*i.e.* affected public): FHA approved MAP Lenders.

Estimated Number of Respondents: 90.

Estimated Number of Responses: 828.

Frequency of Response: 1.

Average Hours per Response: 540.

Total Estimated Burden: 123,574.

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.

Date: July 21, 2017.

Inez C. Downs,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2017–16047 Filed 7–28–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5997–N–40]

30-Day Notice of Proposed Information Collection: Section 8 Renewal Policy Guide

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD 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 30 days of public comment.

DATES: *Comments Due Date: August 30, 2017.*

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: Inez C. Downs, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email *Inez.C.Downs@hud.gov,* or telephone 202–402–8046. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Downs.

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 May 11, 2017 at 82 FR 22015.

A. Overview of Information Collection

Title of Information Collection: Section 8 Renewal Policy Guide.

OMB Approval Number: 2502–0587.

Type of Request: Extension of currently approved collection.

Form Number: HUD–9624, HUD–9625, HUD–9626, HUD–9627, HUD–9629, HUD–9630, HUD–9631, HUD–9632, HUD–9634, HUD–9635, HUD–9636, HUD–9637, HUD–9639, HUD–9640, HUD–9641, HUD–9642, HUD–9643, HUD–9644, HUD–9646, HUD–9648A, HUD–9648D, HUD–9649, HUD–9651, HUD–93181, HUD–93182, and HUD–93184.

Description of the need for the information and proposed use: The modifications of the Section 8 renewal policy and recent legislation are implemented to address the essential requirement to preserving low income rental housing affordability and availability. The Section 8 Renewal Policy Guide will include recent legislation modifications for renewing of expiring Section 8 policy(ies) Guidebook, as authorized by the 24 CFR part 401 and 24 CFR part 402. The Multifamily Housing Reform and Affordability Act of 1997 (MAHRA) for Fiscal Year 1998 (Pub. L. 105–65, enacted on October 27, 1997), required that expiring Section 8 project-based assistance contracts be renewed under MAHRA. Established in the MAHRA policies renewal of Section 8 project-based contracts rent is based on market rents instead of the Fair Market Rent (FMR) standard.

MAHRA renewals submission should include a Rent Comparability Study (RCS). If the RCS indicated rents were at or below comparable market rents, the contract was renewed at current rents adjusted by Operating Cost Adjustment Factor (OCAF), unless the Owner submitted documentation justifying a budget-based rent increase or participation in Mark-Up-To-Market. The case is that no renewal rents could exceed comparable market rents. If the RCS indicated rents were above comparable market rents, the contract was referred to the Office of Affordable Housing Preservation (OAHP) for debt restructuring and/or rent reduction. The Preserving Affordable Housing for Senior Citizens and Families in to the 21st Century Act of 1999 (public law 106–74, enacted on October 20, 1999), modified MAHRA.

The Section 8 Renewal Policy Guide sets forth six renewal options from which a project owner may choose when renewing their expiring Section 8 contract: Option One—Mark-Up-To-Market, Option Two—Other Contract Renewal with Current Rents at or Below Comparable Market Rents, Option Three—Referral to the Office of Affordable Preservation (OAHP), Option Four—Renewal of Projects Exempted From OMHAR, Option Five—Renewal of Portfolio Reengineering Demonstration or Preservation Projects, and Option Six—Opt Outs. Owners should select one of six options which are applicable to their project and should submit contract renewal on an annual basis to renew contract.

The Section 8 Renewal Guide sets forth six renewal options from which a project owner may choose when renewing their expiring Section 8 contracts. Option One (Mark-Up-To-Market), Option Two (Other Contract Renewals with Current Rents at or Below Comparable Market Rents), Option Three (Referral to the Office of Multifamily Housing Assistant Restructuring—OHAP), Option Four (Renewal of Projects Exempted from OHAP), Option Five (Renewal of Portfolio Reengineering Demonstration or Preservation Projects), and Option Six (Opt-Outs).

Respondents: (*i.e.* affected public) Business or other for profit and nonprofit.

Estimated Number of Respondents: 25,439.

Estimated Number of Responses: 25,439.

Frequency of Response: On occasion.

Average Hours per Response: 1 hour.

Total Estimated Burden: 24,680.

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.

Date: July 11, 2017.

Inez C. Downs,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2017–16045 Filed 7–28–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2017–N075; FXES11140200000–178–FF02ENEH00]

Intent To Prepare a Draft National Environmental Policy Act Analysis and Associated Documents for LCRA Transmission Services Corporation's Proposed Habitat Conservation Plan, TX

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent; announcement of public scoping meetings; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, advise the public that we intend to evaluate the impacts of, and alternatives to, the proposed issuance of an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended, to LCRA Transmission Services Corporation (LCRA TSC; applicant) for incidental take of approximately 35 federally listed species for construction, operation, upgrade, decommissioning, and maintenance of the applicant's facilities within the proposed plan area (approximately 241 counties). LCRA TSC proposes to draft a Habitat Conservation Plan in support of the ITP. We also announce plans for public scoping meetings and the opening of a public comment period under the National Environmental Policy Act of 1969, as amended (NEPA).

DATES: Written comments on alternatives and issues to be addressed must be received by close of business on or before August 30, 2017. Four public scoping meetings will be held throughout the proposed plan area. Exact meeting locations and times will be announced in local newspapers and on the Service's Austin Ecological Services Office Web site, *https://www.fws.gov/southwest/es/AustinTexas/,* at least 2 weeks prior to each meeting.

ADDRESSES: To request further information or submit written comments, use one of the following methods, and note that your information request or comment is in reference to the LCRA TSC NEPA analysis:

- *Email: FW2_AUES_Consult@fws.gov;*
- *U.S. Mail:* Field Supervisor, Austin Ecological Services Field Office, 10711 Burnet Road, Ste. 200, Austin, Texas 78758;
- *Fax:* (512) 490–0974; or
- *Telephone:* (512) 490–0057.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), advise the public that we intend to evaluate the impacts of, and alternatives to, the proposed issuance of an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (16 U.S.C 1531 *et seq.;* ESA), to LCRA Transmission Services Corporation (LCRA TSC; applicant) for incidental take of approximately 35 federally listed species during construction, operation, upgrade, decommissioning, and maintenance of the applicant's facilities within the proposed plan area (approximately 241 Texas counties). LCRA TSC proposes to draft a Habitat Conservation Plan (HCP) in support of the ITP. We also announce plans for public scoping meetings and the opening of a public comment period.

We publish this notice in compliance with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321, *et seq.;* NEPA), and its implementing regulations (40 CFR 1501.7, 1506.6, and 1508.22), and section 10(c) of the ESA. We will use and coordinate the NEPA process to fulfill our obligations under the National Historic Preservation Act (Pub. L. 89–665, as amended by Pub. L. 96–515, and as provided in 36 CFR 800.2(d)(3) and 800.8(c)). We intend to gather the information necessary to determine impacts and alternatives to support a decision regarding the potential issuance of an ITP to LCRA TSC under the ESA.

The applicant proposes to develop an HCP as part of their application for an ITP. The proposed HCP will describe, among other things, the measures necessary to minimize and mitigate the impacts, to the maximum extent practicable, of potential proposed taking of federally listed species and the habitats upon which they depend, resulting from operations, maintenance, upgrade, decommissioning, and construction of LCRA TSC facilities. At this time, we intend to evaluate the impacts of, and alternatives to, the proposed issuance of an ITP under the Act to LCRA TSC.

National Environmental Policy Act Process

Upon completion of the public scoping process and completion of our review of the applicant's proposed HCP, we will determine whether an environmental assessment (EA) or Environmental Impact Statement is the appropriate NEPA analysis to support potential issuance of the ITP.

Background

Section 9 of the ESA and its implementing regulations prohibit ''take'' of fish and wildlife species listed as endangered or threatened under the ESA. The ESA defines ''take'' as ''to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed animal species, or attempt to engage in such conduct'' (16 U.S.C. 1533). The term ''harm'' is defined in the regulations as significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3). However, the Service may, under specified circumstances, issue permits that allow the take of federally listed species, provided that the take is incidental to, but not the purpose of, otherwise lawful activity. Regulations governing ITPs for endangered and threatened species are at 50 CFR 17.22 and 17.32, respectively.

Section 10(a)(1)(B) of the ESA contains provisions for issuing such ITPs to non-Federal entities for the take of endangered and threatened species, provided the following criteria are met: (1) The taking will be incidental; (2) the applicant will, to the maximum extent practicable, minimize and mitigate the impact of such taking; (3) the applicant will develop a conservation plan and ensure that adequate funding for the plan will be provided; (4) the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and (5) the applicant will carry out any other measures that we may require as being necessary or appropriate for the purposes of the HCP (16 U.S.C. 1539(a)(1)(B) and 1539(a)(2)(A)).

Thus, the purpose of issuing an ITP is to authorize take associated with the proposed activities while conserving covered species and their habitats. Implementation of a comprehensive multispecies HCP, rather than a project-by-project approach, will maximize the benefits of conservation measures for the covered species and eliminate expensive and time-consuming efforts associated with processing individual ITPs for each project the applicant undertakes. We expect that the applicant will request ITP coverage for a period of 30 years.

Scoping Meetings

A primary purpose of the scoping process is to receive suggestions and information on the scope of issues and alternatives for the Service to consider. The Service is planning to have scoping meetings. The time and exact locations will be published in local newspapers of record and posted on the Austin Ecological Service Field Office Web site (*https://www.fws.gov/southwest/es/AustinTexas/*) no later than two weeks prior to holding the meetings. Written comments will be accepted at the meetings. Comments can also be submitted to persons listed in the **ADDRESSES** section.

Alternatives

The Proposed Action presented in our analysis will be compared to the No-Action alternative. The No-Action alternative represents estimated future conditions to which the Proposed Action's estimated future conditions can be compared.

No-Action Alternative

Because the proposed activities are necessary for providing services to accommodate future population growth and energy demand, these activities would continue regardless of whether the proposed ITP is sought or issued. Under the no-action alternative, the applicant would comply with the ESA by avoiding and minimizing impacts to listed species where practicable. Where impacts to listed species cannot be avoided, and where a Federal nexus exists, the applicant would address such impacts pursuant to the consultation process prescribed by section 7 of the ESA. Absent a Federal nexus, if the applicant is unable to avoid take, they would apply for an ITP on a project-by-project basis. This project-by-project approach would be more time-consuming and less efficient, and could result in an isolated, independent mitigation approach.

Proposed Alternative

The Proposed Action is the issuance of an ITP for the proposed covered species for the proposed covered activities within the Plan Area. The proposed HCP, which must meet the requirements in section 10(a)(2)(A) of the ESA by providing measures to minimize and mitigate the effects of the potential incidental take of covered species to the maximum extent practicable, would be developed in coordination with the Service and implemented by the applicant.

This alternative will allow for a comprehensive mitigation approach for unavoidable impacts and result in a more efficient and timely permit processing effort for the Service and the applicant. Actions covered under the requested ITP may include possible take of the species associated with the proposed activities.

The proposed activities include construction, operation, upgrade, decommissioning, and maintenance activities associated with current and future LCRA TSC electrical transmission lines, substations, access roads, and related infrastructure and facilities. More specifically, these may include general activities associated with new construction, maintenance, and emergency response and restoration, including stormwater discharges from construction sites, equipment access, and surveying. Construction activities covered for new facilities would include new overhead transmission lines, new support facilities such as substations and switching stations, adding a second circuit on an existing structure, and underground electric installation. Typical maintenance activities would include vegetation management within a right-of-way, expansion of existing support facilities, line upgrades, hardware replacement, and maintenance of above-ground and underground electric facilities.

The Plan Area encompasses 241 Texas counties, including: Anderson, Andrews, Angelina, Aransas, Archer, Armstrong, Atascosa, Austin, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Bowie, Brazoria, Brazos, Brewster, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Castro, Chambers, Cherokee, Childress, Clay, Coke, Coleman, Collin, Collingsworth, Colorado, Comal, Comanche, Concho, Cooke, Coryell, Cottle, Crane, Crockett, Crosby, Culberson, Dallas, Dawson, DeWitt, Deaf Smith, Delta, Denton, Dickens, Dimmit, Donley, Duval, Eastland, Ector, Edwards, Ellis, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Gillespie, Glasscock, Goliad, Gonzales, Gray, Grayson, Gregg, Grimes, Guadalupe, Hale, Hall, Hamilton, Hansford, Hardeman, Harris, Harrison, Hartley, Haskell, Hays, Hemphill, Henderson, Hidalgo, Hill, Hood, Hopkins, Houston, Howard, Hudspeth, Hunt, Hutchinson, Irion, Jack, Jackson, Jasper, Jeff Davis, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kendall, Kenedy, Kent, Kerr, Kimble, King, Kinney, Kleberg, Knox, La Salle, Lamar, Lamb, Lampasas, Lavaca, Lee, Leon, Liberty, Limestone, Lipscomb, Live Oak, Llano, Loving, Lubbock, Lynn, Madison, Martin, Mason, Matagorda, Maverick, McCulloch, McLennan, McMullen, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Montgomery, Moore, Morris, Motley, Nacogdoches, Navarro, Nolan, Nueces, Ochiltree, Oldham, Palo Pinto, Panola, Parker, Parmer, Pecos, Polk, Potter, Presidio, Rains, Randall, Reagan, Real, Red River, Reeves, Refugio, Roberts, Robertson, Rockwall, Runnels, Rusk, San Augustine, San Jacinto, San Patricio, San Saba, Schleicher, Scurry, Shackelford, Shelby, Smith, Somervell, Starr, Stephens, Sterling, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terrell, Terry, Throckmorton, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Val Verde, Van Zandt, Victoria, Walker, Waller, Ward, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Winkler, Wise, Wood, Young, Zapata, and Zavala Counties.

The applicant may apply for an ITP to cover 35 species listed as endangered or threatened within the proposed permit area. However, the ultimate list of species covered by the proposed ITP and associated HCP may change based on the outcome of more detailed reviews of the best available science, changes to the list of protected species, or further assessments of the likelihood of take from the proposed activities. At this time, LCRA TSC expects to include the following species:

Endangered birds: Golden-cheeked warbler (*Setophaga* [=*Dendroica*] *chrysoparia*), black-capped vireo (*Vireo atricapilla*), whooping crane (*Grus americana*), interior least tern (*Sterna antillarum athalassos*), southwestern willow flycatcher (*Empidonax traillii extimus*), Northern aplomado falcon (*Falco femoralis septentrionalis*), and red-cockaded woodpecker (*Picoides borealis*).

Threatened birds: Piping plover (*Charadrius melodus*), rufa red knot (*Calidris canutus rufa*), and western yellow-billed cuckoo (*Coccyzus americanus*).

Endangered mammals: Ocelot (*Leopardus pardalis*) and Gulf Coast jaguarundi (*Herpailurus yagouaroundi cacomitli*).

Endangered Amphibians: Barton Springs salamander (*Eurycea sosorum*) and Houston toad (*Bufo houstonensis*).

Threatened Amphibians: Georgetown salamander (*Eurycea naufragia*), Jollyville Plateau salamander (*Eurycea tonkawae*), Salado Springs salamander (*Eurycea chisholmensis*), and San Marcos salamander (*Eurycea nana*).

Endangered Invertebrates: Comal Springs riffle beetle (*Heterelmis comalensis*), Bee Creek Cave harvestman (*Texella reddelli*), Bone Cave harvestman (*Texella reyesi*), Cokendolpher Cave harvestman (*Texella cokendolpheri*), Tooth Cave pseudoscorpion (*Tartarocreagris texana*), Tooth Cave spider (*Tayshaneta myopica*), Inner Space Cavern mold beetle (*Batrisodes texanus*), Kretschmarr Cave mold beetle (*Texamaurops reddelli*), Tooth Cave ground beetle (*Rhadine persephone*), Braken Bat Cave meshweaver (*Cicurina venii*), Government Canyon Bat Cave meshweaver (*Cicurina vespera*), Madla Cave meshweaver (*Cicurina madla*), Robber Baron Cave meshweaver (*Cicurina baronia*), Government Canyon Bat Cave spider (*Tayshaneta microps*), Helotes mold beetle (*Batrisodes venyivi*), *Rhadine exilis,* and *Rhadine infernalis.*

Other Alternatives

We seek information regarding other reasonable alternatives during this scoping period and will evaluate the impacts associated with such alternatives in our analysis.

Public Availability of Comments

Written comments received will become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that the entire comment—including your personal identifying information—will be publicly available. 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.

Environmental Review

The Service will draft our environmental review to analyze the proposed action, as well as other alternatives, and the associated impacts of each alternative on the human environment and each species covered for the range of alternatives to be addressed. Our analysis is expected to provide biological descriptions of the affected species and habitats, as well as the effects of the alternatives on other resources, such as vegetation, wetlands, wildlife, geology and soils, air quality, water resources, water quality, cultural resources, land use, recreation, water use, local economy, and environmental justice. Following completion of the environmental review, the Service will publish a notice of availability and a request for comment on our environmental analysis and the applicants' permit application, which will include the draft HCP.

Joy E. Nicholopoulos,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 2017–16056 Filed 7–28–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[178A2100DD/AAKC001030/A0A501010.999900 253G; OMB Control Number 1076–0164]

Agency Information Collection Activities: Submission to the Office of Management and Budget for Review and Approval; Homeliving Programs and School Closure and Consolidation

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Bureau of Indian Education (BIE) is proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before August 30, 2017.

ADDRESSES: Send written comments on this information collection request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov;* or via facsimile to (202) 395–5806. Please provide a copy of your comments to Ms. Juanita Mendoza, U.S. Department of the Interior, Bureau of Indian Education, 1849 C Street NW., Washington, DC 20240; fax: (202) 208–3312; email: *Juanita.Mendoza@bie.edu.* Please reference OMB Control Number 1076–0164 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Ms. Juanita Mendoza, (202) 208–6123. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: We, the BIE, in accordance with the Paperwork Reduction Act of 1995, provide the general public and other Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on May 26, 2017, (82 FR 24384). No comments were received.

We are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the BIE; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the BIE enhance the quality, utility, and clarity of the information to be collected; and (5) how might the BIE minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

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.

Title of Collection: Homeliving Programs and School Closure and Consolidation.

OMB Control Number: 1076–0164.

Form Number: None.

Type of Review: Extension without change of currently approved collection.

Respondents/Affected Public: Indian Tribes.

Total Estimated Number of Annual Responses: 730 per year, on average.

Total Estimated Number of Annual Burden Hours: 1,344 hours.

Total Estimated Number of Annual Respondents: There are 65 schools with residential programs, of which 13 are Bureau-operated and 52 are Tribally-operated. Thus, the collection of information must be cleared for 52 of the 65 residential schools.

Estimated Completion Time per Response: Ranges from 1 minute to 40 hours, depending on the activity.

Respondent's Obligation: Response is required to obtain a benefit.

Frequency of Collection: Annual or on occasion, depending on the activity.

Total Estimated Annual Nonhour Burden Cost: $0.

Abstract: The regulations at 25 CFR 36, Subpart G, Home-living Programs, implement section 1122 of the Native American Education Improvement Act of 2001 (Pub. L. 95–561, title XI, § 1120, as added Pub. L. 107–110, title X, § 1042, Jan. 8, 2002, 115 Stat. 2007). These regulations require the BIE to implement national standards for home-living situations in all BIE-funded residential schools. The BIE must collect information from all BIE-funded residential schools in order to assess each school's progress in meeting the national standards. Submission of this information allows the BIE to ensure that minimum academic standards for the education of Indian children and criteria for dormitory situations in Bureau-operated schools and Indian-controlled contract schools are met.

The authorities for this action are 25 U.S.C. 2000–2021 and the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2017–16001 Filed 7–28–17; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCA942000 L57000000.BX0000 15X L5017AR]

Filing of Plats of Survey: California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The plats of survey of lands described in this notice are scheduled to be officially filed in the Bureau of Land Management (BLM), California State Office, Sacramento, California. The surveys which were executed at the request of Fish and Wildlife Service, Bureau of Indian Affairs, U.S. Forest Service, Natural Resources Conservation Service, and the BLM, are necessary for the management of these lands.

DATES: Protests must be received by the BLM by August 30, 2017.

ADDRESSES: A copy of the plats may be obtained from the BLM, California State Office, 2800 Cottage Way W–1623, Sacramento, California 95825, upon required payment. Please use this address when filing written protests.

FOR FURTHER INFORMATION CONTACT: Jon Kehler, Chief, Branch of Cadastral Survey, Bureau of Land Management, California State Office, 2800 Cottage Way W–1623, Sacramento, California 95825; 1–916–978–4323; *jkehler@blm.gov.* Persons who use a telecommunications device for the deaf may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The Service is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The lands surveyed are:

San Bernardino Meridian, California

T. 3 S., R. 1 E., supplemental plat of portion of sections 1, 2, and 12, accepted June 30, 2017.

T. 7 S., R. 8 E., dependent resurvey and metes-and-bounds survey, accepted July 12, 2017.

A person or party who wishes to protest a survey must file a notice that they wish to protest with the Chief, Branch of Cadastral Survey. A statement of reasons for a protest may be filed with the notice of protest and must be filed with the Chief, Branch of Cadastral Survey within 30 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 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 the BLM in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 43 U.S.C. Chapter 3.

Jon L. Kehler,

Chief Cadastral Surveyor.

[FR Doc. 2017–16055 Filed 7–28–17; 8:45 am]

BILLING CODE 4310–40–P

NATIONAL INDIAN GAMING COMMISSION

Protocol for Categorical Exclusions Supplementing the Council on Environmental Quality Regulations Implementing the Procedural Provisions of the National Environmental Policy Act for Certain National Indian Gaming Commission Actions and Activities

AGENCY: The National Indian Gaming Commission.

ACTION: Notice of final action.

SUMMARY: The National Indian Gaming Commission (NIGC or ''the Commission'') is amending its protocol for categorical exclusions under the National Environmental Policy Act of 1969 (NEPA), as amended, Executive Order 11514, as amended, and Council on Environmental Quality (CEQ) regulations for implementing the procedural provisions of NEPA for certain NIGC actions.

DATES: The NIGC will implement this protocol immediately upon publication.

ADDRESSES: Andrew Mendoza, Staff Attorney, National Indian Gaming Commission, 1849 C Street NW., Mailstop #1621, Washington, DC 20240; fax at (202) 632–7066; or by email to: *andrew_mendoza@nigc.gov.*

FOR FURTHER INFORMATION CONTACT: Andrew Mendoza, Staff Attorney at the National Indian Gaming Commission: 202–632–7003 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

On December 4, 2009, the Commission published a draft NEPA manual in the **Federal Register** (74 FR 63765). The purpose of the manual was to establish the Commission's NEPA-related policies and procedures and to integrate environmental considerations into the Commission's decision-making processes. The draft manual identified one type of major federal action performed under the Indian Gaming Regulatory Act (IGRA) that triggered NEPA review, specifically, the approval of contracts for the management of Indian gaming facilities pursuant to 25 U.S.C. 2711. In addition to identifying major federal actions applicable to the Commission, the draft manual also established the Commission's NEPA-related roles and responsibilities and created a framework for the preparation of NEPA documentation appropriate for each level of environmental review. The draft manual also identified three categories of actions taken by the NIGC that are categorically excluded from further NEPA review. Categorical

exclusions (CATEX) are actions that do not normally require preparation of an Environmental Assessment (EA) or Environmental Impact Statement (EIS), absent extraordinary circumstances.

On May 22, 2012, after reviewing the comments submitted on the draft NEPA manual, the Commission published a Protocol for Categorical Exclusions Supplementing the Council on Environmental Quality Regulations Implementing the Procedural Provisions of the National Environmental Policy Act for Certain National Indian Gaming Commissions Actions and Activities (77 FR 30315) and requested comments by June 30, 2012. This publication formally adopted two of the three categorical exclusions listed in the draft NEPA manual.

In 2015, after evaluating its past environmental reviews for management contract approvals and the comments received on the 2009 draft NEPA manual, the Commission decided to revisit its policies and procedures for implementing NEPA. To obtain updated views from the regulated community, the Commission held several consultation sessions over a two-year period with tribal nations and solicited comments regarding the scope and extent of its NEPA responsibilities. Following consultation, the Commission evaluated the newly submitted comments in conjunction with those received in response to the 2009 draft manual and decided to amend the 2012 Protocol to include a third CATEX for Management Contract and Agreement Review Activities. This CATEX will apply to certain management contract approvals that are not associated with an application to take land into trust and do not provide for construction or expansion of existing structures. In identifying this category of actions, the NIGC relied on its past experience, several environmental professionals' opinions and comparisons with other Federal agency actions that are categorically excluded.

Comments

On January 11, 2017, the Commission published a notice of proposed action and request for comments on the amended protocol in the **Federal Register** (82 FR 3352). In response, it received only one comment. The commenter requested that the Native American Graves Protection and Repatriation Act (NAGPRA) 25 U.S.C. 3001–3013 be included within the list of examples of environmental laws with which parties seeking to apply the categorical exclusion must comply. The Commission agrees and updated the language accordingly.

The same commenter also questioned how the Commission would interpret the term ''known'' with respect to the extraordinary circumstances involving ''known cultural or archaeological resources.'' Given the potential for confusion regarding this term, the Commission eliminated the term and, instead, references the Archaeological Resources Protection Act (ARPA) 16 U.S.C. 470aa–470mm, and NAGPRA. The Commission believes that referencing the particular statutes sufficiently demonstrates its intent to abide by the objective, legal definitions and processes set forth therein.

After considering the comments, the Commission hereby adopts the amended protocol set forth below for determining whether a categorical exclusion applies to particular action as well as the categories of actions the Commission has determined are eligible for categorical exclusions.

A copy of this **Federal Register** publication, as well as the administrative record for the newly established categorical exclusion, is available at *http://www.nigc.gov.* A copy of the **Federal Register** publication is available at *http://www.regulations.gov.*

Tribal Consultation

The National Indian Gaming Commission is committed to fulfilling its tribal consultation obligations—whether directed by statute or administrative action such as Executive Order (EO) 13175 (Consultation and Coordination with Indian Tribal Governments)—by adhering to the consultation framework described in its Consultation Policy published July 15, 2013. Pursuant to the Order, the Commission engaged in extensive consultation on this topic.

Regulatory Flexibility Act

This Protocol will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* Indian tribes are not considered to be small entities for the purposes of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

This Protocol is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This Protocol does not have an annual effect on the economy of $100 million or more. This rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies or geographic regions, and does not have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

The Commission, as an independent regulatory agency within the Department of the Interior, is exempt from compliance with the Unfunded Mandates Reform Act. 2 U.S.C. 1502(1); 2 U.S.C. 658(1).

Takings

In accordance with Executive Order 12630, the Commission has determined that this Protocol does not have significant takings implications. A takings implication assessment is not required.

Civil Justice Reform

In accordance with Executive Order 12988, the Office of General Counsel has determined that the Protocol does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Executive Order.

National Environmental Policy Act

This Protocol supplements CEQ regulations and provides guidance to NIGC employees regarding procedural requirements for the application of NEPA provisions to certain NIGC actions. The CEQ does not direct agencies to prepare a NEPA analysis or document before establishing agency procedures for implementing NEPA.

For the reasons set out in the preamble, the National Indian Gaming Commission establishes the following Protocol:

Protocol for Categorical Exclusions (CATEX) of Certain Actions

The use of a CATEX can only be applied to an action if all of the following criteria are met:

1. The responsible NIGC official must determine that the entirety of the NIGC action is encompassed by one of the listed CATEXs.

2. The responsible NIGC official must determine that the action has not been segmented in order for the NIGC action to meet the definition of an action that can qualify for a CATEX. Segmentation occurs when an action is broken into smaller parts in an effort to avoid properly documenting impacts associated with the complete action. Segmentation also occurs when the NIGC action is too narrowly defined and the potential impacts are minimized in order to avoid a higher level of NEPA documentation. Connected and

cumulative actions must be considered (*See* 40 CFR 1508.25).

3. The responsible NIGC official must determine if the NIGC action will involve any extraordinary circumstances that would prevent the use of a categorical exclusion.

Categorical Exclusions

The NIGC, based on past experience with similar actions, has determined that the following types of actions are categorically excluded and do not require the preparation of an EA or EIS because they will not individually or cumulatively result in a significant impact on the human environment. These types of federal actions meet the criteria established in 40 CFR 1508.4.

Category 1—Administrative and Routine Office Activities

A. Normal personnel, fiscal, and administrative activities involving personnel (recruiting, hiring, detailing, processing, paying, supervising and records keeping).

B. Preparation of administrative or personnel-related studies, reports, or investigations.

C. Routine procurement of goods and services to support operations and infrastructure, including routine utility services and contracts, conducted in accordance with applicable procurement regulations, executive orders, and policies (*e.g.* Executive Order 13101).

D. Normal administrative office functions (record keeping; inspecting, examining, and auditing papers, books, and records; processing correspondence; developing and approving budgets; setting fee payments; responding to request for information).

E. Routine activities and operations conducted on or in an existing structure that are within the scope and compatibility of the present functional use of the building, will not result in a substantial increase in waste discharge to the environment, will not result in substantially different waste discharges from current or previous activities, and will not result in emissions that exceed established permit limits, if any. In these cases, a Record of Environmental Consideration (REC), documentation is required.

F. NIGC training in classrooms, meeting rooms, gaming facilities, or via the internet.

Category 2—Regulation, Monitoring and Oversight of Indian Gaming Activities

A. Promulgation or publication of regulations, procedures, manuals, and guidance documents.

B. Support of compliance and enforcement functions by conducting compliance training for tribal gaming regulators and managers in classrooms, meeting rooms, gaming facilities, or via the internet.

C. Preparing and issuing subpoenas, holding hearings, and taking depositions for informational gathering purposes, not associated with administrative enforcement actions.

Category 3—Management Contract and Agreement Review Activities

A. Approval or disapproval of management contracts, management contract amendments and collateral agreements that meet the following criteria: (1) Are not associated with an application to take land into trust; (2) does not provide for construction or expansion of existing facilities; (3) ensures compliance with all federal, state, local and tribal environmental laws (*e.g.* Clean Air Act, Clean Water Act, Endangered Species Act, National Historic Preservation Act, Native American Graves Protection and Repatriation Act, etc.), regulations, and permit requirements; and (4) ensures adequate provision of utilities, law enforcement, fire protection, and other emergency service coverage without effects on neighboring areas. In these cases, a Record of Environmental Consideration (REC), documentation is required.

B. Conducting background investigations in connection with a management contract or management contract amendment.

Extraordinary Circumstances

Actions that can normally be categorically excluded may not qualify for a CATEX because an extraordinary circumstance exists (*See* 40 CFR 1508.4). If the proposed action has one or more of the following conditions, extraordinary circumstances exist and the action cannot be categorically excluded:

A. The proposed action/project would threaten a violation of applicable federal, state, local or tribal statutory, regulatory, or permit requirements with regard to public health and safety.

B. The proposed action/project has effects on the environment that involve risks that are highly uncertain, unique, or are scientifically controversial.

C. The proposed action/project violates one or more federal, tribal, state, or local environmental laws, regulations, permit requirements, or Executive Order.

D. The proposed action/project has an adverse effect on a property or structure eligible for listing or listed on the National Register of Historical Places as determined by-the Commission, the State Historic Preservation Officer, the Tribal Historic Preservation Officer, the Advisory Council on Historic Preservation, or a consulting party under 36 CFR 800. Adverse effects include the degradation, loss, or destruction of (1) scientific, cultural, or historical resources protected by the National Historic Preservation Act of 1966, as amended; (2) on World Heritage properties; or (3) other significant scientific, cultural, or historical resources.

E. The proposed action/project has adverse effects on natural, ecological, or scenic resources of federal, tribal, state and/or local significance. These resources include: (1) Resources protected by Coastal Zone Management Act (CZMA); (2) resources protected by the Fish and Wildlife Coordination Act; (3) prime, unique, tribal, state or locally important farmlands; (4) cultural items or archaeological resources as defined by the Archaeological Resources Protection Act and/or Native American Graves Protection and Repatriation Act; (5) park lands; (6) federal or state listed wild or scenic rivers; and/or (7) other ecologically critical areas.

F. The proposed action/project is related to other actions that may, when considered cumulatively, have significant adverse effects.

G. The proposed action/project may adversely affect (1) a federal or state listed endangered, threatened, or candidate species; or (2) designated or proposed critical habitat under the Endangered Species Act (ESA).

H. The proposed action/project has effects which will impact floodplains and/or wetlands on Federal property.

I. The proposed action/project has effects that will cause a criteria pollutant listed under the Clean Air Act to exceed the threshold level of one or more of the National Ambient Air Quality Standards for the surrounding geographical area.

J. The proposed action/project has effects that may cause disproportionately high adverse environmental or health impacts specific to children, minorities, or low-income populations.

K. The proposed action/project is likely to have adverse effects on migratory bird populations.

L. The proposed action/project has the potential to disturb hazardous substances, pollutants, contaminants, or CERCLA-excluded petroleum and natural gas products that preexist in the environment such that there would be uncontrolled or unpermitted releases.

M. The proposed action/project has effects that are highly controversial on environmental grounds.

Categorical Exclusion Documentation

The purpose of categorical exclusions is to reduce paperwork and delay. The NIGC is not required to repeatedly document actions that qualify for a categorical exclusion and do not involve an extraordinary circumstance (*See* 40 CFR 1500.4(p)). The NIGC will document its decision to treat a particular action as categorically excluded from further NEPA review, when the CATEX applied specifically requires the preparation of a REC. In those cases, a REC will include:

A. A complete description of the proposed action/project;

B. The CATEX relied upon, including a brief discussion of why there are no extraordinary circumstances;

C. Supplemental documentation that supports the conclusions in the narrative. Examples include exhibit(s) showing boundaries of historical or archeological site(s) previously identified near the proposed project, documentation from the U.S. Fish and Wildlife Service noting that no endangered species or habitat is present near the proposed project, evidence that the proposed project site is located outside any non-attainment area(s), etc. In some cases, a ''no effect'' determination from the State Historic Preservation Office or Tribal Historic Preservation Office may be required;

D. The following statement: *I certify that, to the best of my knowledge, the information provided is the best available information and is accurate;*

E. A signature from an environmental professional with a signature block that includes the professional's credentials.

Dated: July 14, 2017.

Jonodev O. Chaudhuri,

Chairman.

Kathryn Isom-Clause,

Vice Chair.

E. Sequoyah Simermeyer,

Commissioner.

[FR Doc. 2017–15498 Filed 7–28–17; 8:45 am]

BILLING CODE 7565–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX066A0067F 178S180110; S2D2D SS08011000 SX066A00 33F 17XS501520]

Agency Information Collection Activities: OMB Control Number 1029–0091; Requirements for Surface Coal Mining and Reclamation Operations on Indian Lands

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice and request for comments for 1029–0091.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSMRE) is announcing that the information collection request for the requirements for surface coal mining and reclamation operations on Indian lands has been forwarded to the Office of Management and Budget (OMB) for review and approval. The information collection request describes the nature of the information collection and the expected burden and cost.

DATES: OMB has up to 60 days to approve or disapprove the information collection, but may respond after 30 days. Therefore, public comments should be submitted to OMB by August 30, 2017, in order to be assured of consideration.

ADDRESSES: Submit comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of the Interior Desk Officer, by telefax at (202) 395–5806 or via email at *OIRA_Docket@omb.eop.gov.* Also, please send a copy of your comments to John Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Room 202–SIB, Washington, DC 20240, or electronically at *jtrelease@osmre.gov.* Please refer to OMB control number 1029–0091 in your correspondence.

FOR FURTHER INFORMATION CONTACT: To receive a copy of the information collection request, contact John Trelease at (202) 208–2783, or electronically at *jtrelease@osmre.gov.* You may also review this collection by going to *http://www.reginfo.gov* (Information Collection Review, Currently Under Review, Agency is Department of the Interior, DOI–OSMRE).

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. OSMRE has submitted a request to OMB to renew its approval of the collection of information for 30 CFR 750—Requirements for surface coal mining and reclamation operations on Indian lands. OSMRE is requesting a 3-year term of approval for this information collection activity.

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 OMB control number for this collection of information is 1029–0091. Applicants are required to respondent to obtain a benefit.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments for this collection of information was published on April 5, 2017 (82 FR 16621). No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection activity:

Title: 30 CFR 750—Requirements for Surface Coal Mining and Reclamation Operations on Indian Lands.

OMB Control Number: 1029–0091.

Summary: Surface coal mining permit applicants who conduct or propose to conduct surface coal mining and reclamation operations on Indian lands must comply with the requirements of 30 CFR 750 pursuant to Section 710 of SMCRA.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: Applicants for coal mining permits.

Total Annual Responses: One new permit, one significant revision, 25 minor revisions annually.

Total Annual Burden Hours: 16,427 hours annually.

Total Annual Non-Wage Burden Costs: $34,000.

Send comments on the need for the collection of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collection; and ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information, to the addresses listed under **ADDRESSES**. Please refer to the appropriate OMB control number 1029–0091 in your correspondence.

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: The authorities for this action are the Surface Mining Control and Reclamation Act of 1977, as amended (30 U.S.C. 1201 *et seq.*), and the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: June 15, 2017.

John A. Trelease,

Acting Chief, Division of Regulatory Support.

[FR Doc. 2017–16044 Filed 7–28–17; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooper, Ative Research and Production Act of 1993—Vehicle To Infrastructure Consortium

Notice is hereby given that, on June 29, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Vehicle to Infrastructure Consortium (''V2I Consortium'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Chrysler Group, LLC, Auburn Hills, MI, and Mercedes-Benz Research & Development North America, Inc., Sunnyvale, CA, have withdrawn as a parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and V2I Consortium intends to file additional written notifications disclosing all changes in membership.

On December 3, 2014, V2I Consortium filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 31, 2014 (79 FR 78908).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017–16050 Filed 7–28–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Isosciences, LLC

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before September 29, 2017.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on May 17, 2017, Isosciences, LLC, 1017 West 9th Avenue, Building 10, Suite B, King of Prussia, Pennsylvania 19406 applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Cathinone	1235	I
Methcathinone	1237	I
Lysergic acid diethylamide	7315	I
3,4-Methylenedioxyamphetamine	7400	I
3,4-Methylenedioxy-N-ethylamphetamine	7404	I
Amphetamine	1100	II
Methamphetamine	1105	II
Codeine	9050	II
Morphine	9300	II

The company plans to manufacture small quantities of the listed controlled substances to make reference standards which will be distributed to their customers.

Dated: July 24, 2017.

Demetra Ashley,

Acting Assistant Administrator.

[FR Doc. 2017–16060 Filed 7–28–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: R & D Systems, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before August 30, 2017. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before August 30, 2017.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701

Morrissette Drive, Springfield, Virginia 22152. All requests for hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All request for hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on March 7, 2017, R & D Systems, Inc., Bio-Techne, 614 McKinley Place NE., Minneapolis, Minnesota 55413 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Mephedrone (4-Methyl-N-methylcathinone)	1248	I
JWH–018 (also known as AM678) (1-Pentyl-3-(1-naphthoyl)indole)	7118	I
CP–47,497 (5-(1,1-Dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl-phenol)	7297	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
4-Bromo-2,5-dimethoxyamphetamine	7391	I
3,4-Methylenedioxymethamphetamine	7405	I
Dimethyltryptamine	7435	I
Psilocyn	7438	I
Pentobarbital	2270	II
Phencyclidine	7471	II
Cocaine	9041	II

The company plans to import bulk active pharmaceutical controlled substances for distribution to its customers for analytical purposes.

In reference to drug codes 7360 and 7370, the company plans to import a synthetic cannabidiol and a synthetic tetrahydrocannabinol. No other activity for these drug codes is authorized for this registration.

Dated: July 24, 2017.

Demetra Ashley,

Acting Assistant Administrator.

[FR Doc. 2017–16064 Filed 7–28–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Sigma-Aldrich International GMBH

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before August 30, 2017. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before August 30, 2017.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All request for hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152. Comments and requests for hearings on applications to import narcotic raw material are not appropriate. 72 FR 3417, (January 25, 2007).

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix of subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on January 19, 2016, Sigma-Aldrich International GMBH, Sigma Aldrich Co. LLC, 3500 Dekalb Street, Saint Louis, Missouri 63118 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Cathinone	1235	I
Methcathinone	1237	I
Mephedrone (4-Methyl-N-methylcathinone)	1248	I
N-Ethylamphetamine	1475	I
Aminorex	1585	I
Gamma Hydroxybutyric Acid	2010	I

Controlled substance	Drug code	Schedule
Methaqualone	2565	I
Alpha-ethyltryptamine	7249	I
Ibogaine	7260	I
Lysergic acid diethylamide	7315	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
Mescaline	7381	I
4-Bromo-2,5-dimethoxyamphetamine	7391	I
4-Bromo-2,5-dimethoxyphenethylamine	7392	I
4-Methyl-2,5-dimethoxyamphetamine	7395	I
2,5-Dimethoxyamphetamine	7396	I
3,4-Methylenedioxyamphetamine	7400	I
N-Hydroxy-3,4-methylenedioxyamphetamine	7402	I
3,4-Methylenedioxy-N-ethylamphetamine	7404	I
3,4-Methylenedioxymethamphetamine	7405	I
4-Methoxyamphetamine	7411	I
Bufotenine	7433	I
Diethyltryptamine	7434	I
Dimethyltryptamine	7435	I
Psilocybin	7437	I
Psilocyn	7438	I
1-[1-(2-Thienyl)cyclohexyl]piperidine	7470	I
N-Benzylpiperazine	7493	I
MDPV (3,4-Methylenedioxypyrovalerone)	7535	I
Butylone	7541	I
Heroin	9200	I
Normorphine	9313	I
Etonitazene	9624	I
Amobarbital	2125	II
Pentobarbital	2270	II
Secobarbital	2315	II
Glutethimide	2550	II
Nabilone	7379	II
Phencyclidine	7471	II
Diphenoxylate	9170	II
Ecgonine	9180	II
Ethylmorphine	9190	II
Levorphanol	9220	II
Meperidine	9230	II
Thebaine	9333	II
Opium, powdered	9639	II
Levo-alphacetylmethadol	9648	II

The company plans to import the listed controlled substances for sale to research facilities for drug testing and analysis.

Dated: July 24, 2017.

Demetra Ashley,

Acting Assistant Administrator.

[FR Doc. 2017–16059 Filed 7–28–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Employment and Training Administration

Nominations for the Task Force on Apprenticeship Expansion; Correction

AGENCY: Employment and Training Administration, Labor.

ACTION: Solicitation of Nominations to Serve on the Task Force on Apprenticeship Expansion.

SUMMARY: The Department of Labor published a document in the **Federal Register** of July 25, 2017 (82 FR 34553), concerning requests for nominations for the task force on apprenticeship expansion. The document contained an incorrect email address in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Please contact Ms. Natalie S. Linton, Program Analyst, Employment and Training Administration, Office of Apprenticeship, at *Linton.Natalie.S@dol.gov,* telephone (202) 693–3592 (this is not a toll-free number).

Correction

In the **Federal Register** of July 25, 2017, in FR Doc. 2017–15682, in the **FOR FURTHER INFORMATION CONTACT** section located in the third column of page 34553, correct the email address to read: *Linton.Natalie.S@dol.gov.*

Byron Zuidema,

Deputy Assistant Secretary for the Employment and Training Administration.

[FR Doc. 2017–16062 Filed 7–28–17; 8:45 am]

BILLING CODE 4510–FR–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Electric Power Generation, Transmission, and Distribution Standard for Construction and General Industry and Electrical Protective Equipment for Construction and General Industry

ACTION: Notice of availability; request for comments.

SUMMARY: On July 31, 2017, the Department of Labor (DOL) will submit the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Electric Power Generation, Transmission, and Distribution Standard for Construction and General Industry and Electrical Protective Equipment for Construction and General Industry,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before August 30, 2017.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201706-1218-002* (this link will only become active as of August 1, 2017) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Electric Power Generation, Transmission, and Distribution Standard for Construction and General Industry and Electrical Protective Equipment Standard for Construction and General Industry information collection requirements codified in regulations 29 CFR 1910.137; 1910.269; 1926, subpart V; and 1926.97 that are designed to help ensure an Occupational Safety and Health Act (OSH Act) covered employer subject to the Standards provides employees with safe work practices that guard against exposure to electrical shock hazards in workplace. OSH Act sections 2, 6, and 8 authorize this information collection. *See* 29 U.S.C. 651, 655, 657.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0253.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on July 31, 2017. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on April 5, 2017 (82 FR 16627).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0253. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–OSHA.

Title of Collection: Electric Power Generation, Transmission, and Distribution Standard for Construction and General Industry and Electrical Protective Equipment for Construction and General Industry.

OMB Control Number: 1218–0253.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 19,746.

Total Estimated Number of Responses: 952,348.

Total Estimated Annual Time Burden: 365,094 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: July 25, 2017.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017–16025 Filed 7–28–17; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Portable Fire Extinguishers Standard

ACTION: Notice of availability; request for comments.

SUMMARY: On July 31, 2017, the Department of Labor (DOL) will submit the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Portable Fire Extinguishers Standard,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before August 30, 2017.

ADDRESSES: A copy of this ICR with applicable supporting documentation;

including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=20171606-1218-004* or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Portable Fire Extinguishers Standard information collection codified in regulations 29 CFR 1910.157(e)(3). The Standard requires an Occupational Safety and Health Act (OSH Act) covered employer to subject each portable fire extinguisher to an annual maintenance inspection and to record the date of the inspection. The regulation requires the employer to retain the inspection record for one year after the last entry or for the life of the shell, whichever is less, and to make the record available to the OSHA on request. This recordkeeping requirement assures employees and OSHA compliance officers that any portable fire extinguisher located in the workplace will operate normally in case of fire; in addition, this requirement provides evidence to an OSHA compliance officer during an inspection that the employer performed the required maintenance checks on the portable fire extinguishers. OSH Act sections 2 and 8 authorize this information collection. *See* 29 U.S.C. 651, 657.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0238.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on July 31, 2017. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on April 24, 2017 (82 FR 18930).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0238. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–OSHA.

Title of Collection: Portable Fire Extinguishers Standard.

OMB Control Number: 1218–0238.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 5,869,911.

Total Estimated Number of Responses: 5,869,911.

Total Estimated Annual Time Burden: 293,496 hours.

Total Estimated Annual Other Costs Burden: $95,386,054.

Dated: July 25, 2017.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017–16029 Filed 7–28–17; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Rigging Equipment for Material Handling

ACTION: Notice of availability; request for comments.

SUMMARY: On July 31, 2017, the Department of Labor (DOL) will submit the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Rigging Equipment for Material Handling,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before August 30, 2017.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201706-1218-005* or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW.,

Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor–OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Rigging Equipment for Material Handling information collection requirements codified in regulations at 29 CFR 1926.251(b)(1); (b)(6)(i) and (ii); (c)(15)(ii); (e)(1)(i), (ii), and (iii); and (f)(2) that require affixing identification tags or markings on rigging equipment, developing and maintaining inspection records, and retaining proof-testing certificates. Occupational Safety and Health Act of 1970 sections 2, 6, and 8 authorize this information collection. *See* 29 U.S.C. 651, 655, 657.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0233.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on July 31, 2017. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on April 24, 2017 (82 FR 18934).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0233. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–OSHA.

Title of Collection: Rigging Equipment for Material Handling.

OMB Control Number: 1218–0233.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 278,343.

Total Estimated Number of Responses: 278,343.

Total Estimated Annual Time Burden: 52,428 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: July 25, 2017.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017–16028 Filed 7–28–17; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Anhydrous Ammonia Storage and Handling Standard

ACTION: Notice of availability; request for comments.

SUMMARY: On July 31, 2017, the Department of Labor (DOL) will submit the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Anhydrous Ammonia Storage and Handling Standard,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before August 30, 2017.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201707-1218-001* (this link will only be active as of August 1, 2017) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Anhydrous Ammonia Storage and Handling Standard information collection requirements codified in regulations 29 CFR 1910.111. Markings the Standard requires help to ensure that an Occupational Safety and Health Act (OSH ACT) covered employer subject to the Standard uses only properly designed and tested containers

and systems to store anhydrous ammonia, thereby, preventing accidental release of, and exposure of workers to this highly toxic and corrosive substance. OSH Act sections 2 and 8 authorize this information collection. *See* 29 U.S.C. 651, 657.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0208.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on July 31, 2017. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on April 25, 2017 (82 FR 19087).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0208. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–OSHA.

Title of Collection: Anhydrous Ammonia Storage and Handling Standard.

OMB Control Number: 1218–0208.

Affected Public: Private Sector—farms.

Total Estimated Number of Respondents: 1,980.

Total Estimated Number of Responses: 1,980.

Total Estimated Annual Time Burden: 337 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: July 25, 2017.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017–16026 Filed 7–28–17; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Process for Expedited Approval of an Exemption for Prohibited Transaction, Prohibited Transaction Class Exemption 1996–62

ACTION: Notice of availability; request for comments.

SUMMARY: On July 31, 2017, the Department of Labor (DOL) will submit the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, ''Process for Expedited Approval of an Exemption for Prohibited Transaction, Prohibited Transaction Class Exemption 1996–62,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before August 30, 2017.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201706-1210-002* or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–EBSA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the information collection requirements contained in Prohibited Transaction Class Exemption (PTE) 1996–62, which provides for accelerated approval of an exemption permitting a plan to engage in a transaction that the Employee Retirement Income Security Act (ERISA) might otherwise prohibit. The PTE may be granted following a demonstration to the DOL that the transaction: (1) Is substantially similar in all material respects to at least two other transactions for which the DOL recently granted administrative relief from the same restriction; and (2) presents little, if any, opportunity for abuse or risk of loss to a plan's participants and beneficiaries. Under the PTE, a party may proceed with a transaction in as little as seventy-eight (78) days from the acknowledgment of receipt by the DOL of a written submission filed in accordance with the terms of the PTE. Internal Revenue Code section 4975 and ERISA section 408 authorize this information collection. *See* 26 U.S.C. 4975 and 29 U.S.C. 1108.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is

approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1210–0098.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on July 31, 2017. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on October 28, 2016 (81 FR 75157).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1210–0098. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–EBSA.

Title of Collection: Prohibited Transaction Class Exemption 1996–62, Process for Expedited Approval of an Exemption for Prohibited Transaction.

OMB Control Number: 1210–0098.

Affected Public: Private Sector—businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 5.

Total Estimated Number of Responses: 3,515.

Total Estimated Annual Time Burden: 88 hours.

Total Estimated Annual Other Costs Burden: $20,457.

Dated: July 25, 2017.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017–16027 Filed 7–28–17; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Requirements for the Occupational Safety and Health Administration Training Institute Education Centers Program and the Occupational Safety and Health Administration Outreach Training Program

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) revision titled, ''Requirements for the Occupational Safety and Health Administration Training Institute Education Centers Program and the Occupational Safety and Health Administration Outreach Training Program,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before August 30, 2017.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201707-1218-005* (this link will only become active as of August 1, 2017) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for revisions to the Requirements for the Occupational Safety and Health Administration Training Institute Education Centers Program and the Occupational Safety and Health Administration Outreach Training Program information collection. The OSHA has two educational programs, the OSHA Training Institute (OTI) Education Centers Program and the OSHA Outreach Training Program (Outreach). To be a participant in the OTI Education Centers Program or the Outreach Training Program, an individual/organization must provide the OSHA with certain information. The requested information is necessary to evaluate the applicant organization and to implement, oversee, and monitor the OTI Education Centers and Outreach Training Programs, courses, and trainers. This information collection has been classified as a revision, because the OSHA is adding a form that will require OTI education centers to provide a listing of all authorized Outreach trainers to the National Office. Occupational Safety and Health Act section 21 authorizes this information collection. *See* U.S.C. 670.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject

to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0262. The current approval is scheduled to expire July 31, 2017; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on April 25, 2017 (82 FR 19089).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0262. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–OSHA.

Title of Collection: Requirements for the Occupational Safety and Health Administration Training Institute Education Centers Program and the Occupational Safety and Health Administration Outreach Training Program.

OMB Control Number: 1218–0262.

Affected Public: Federal Government; State, Local, and Tribal Governments; and Private Sector—business or other for-profit and not for-profit institutions; Individuals or Households.

Total Estimated Number of Respondents: 13,027.

Total Estimated Number of Responses: 54,729.

Total Estimated Annual Time Burden: 15,913 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: July 25, 2017.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017–16024 Filed 7–28–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Hydrostatic Testing Provision of the Portable Fire Extinguishers Standard

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Hydrostatic Testing Provision of the Portable Fire Extinguishers Standard,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before August 30, 2017.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201707-1218-002* (this link will only become active on August 1, 2017) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Hydrostatic Testing Provision of the Portable Fire Extinguishers Standard information collection requirements codified in regulations 1910.157(f)(16) that require and Occupational Safety and Health Act (OSH Act) covered employer subject to the Standard to keep the most recent certification record verifying that hydrostatic testing of fire extinguishers has been performed at intervals specified in Table L–1 of the Standard. Table L–1 requires testing of fire extinguishers at intervals varying between 5 to 12 years, depending on the type of fire extinguisher. An employer who tests fire extinguishers only at these intervals is required to retain testing certification records for longer than 3 years. OSH Act section 8 authorizes this information collection. *See* 29 U.S.C. 657

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under OMB Control Number 1218–0218.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on July 31, 2017. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information

about this ICR, see the related notice published in the **Federal Register** on May 23, 2017 (82 FR 23609).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0218. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g., permitting electronic submission of responses.*

Agency: DOL–OSHA.

Title of Collection: Hydrostatic Testing Provision of the Portable Fire Extinguishers Standard.

OMB Control Number: 1218–0218.

Affected Public: Private Sector—business or other for-profits.

Total Estimated Number of Respondents: 5,217,699.

Total Estimated Number of Responses: 5,217,699.

Total Estimated Annual Time Burden: 519,161 hours.

Total Estimated Annual Other Costs Burden: $72,069,467.

Dated: July 25, 2017.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017–16023 Filed 7–28–17; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Overhead and Gantry Cranes Standard

ACTION: Notice of availability; request for comments.

SUMMARY: On July 31, 2017, the Department of Labor (DOL) will submit the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Overhead and Gantry Cranes Standard,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before August 30, 2017.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201706-1218-006* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064 (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Overhead and Gantry Cranes Standard information collection codified in regulations 29 CFR 1910.179. More specifically, the regulatory provisions include requirements for (1) marking the rated load of a crane; (2) preparing a certification record to verify the inspection of a crane hook, hoist chain, or rope; and (3) preparing a report of the rated load test for a repaired hook or modified crane. An Occupational Safety and Health Act (OSH Act) covered employer subject to the Standard must maintain the records and reports and disclose them upon request. OSH Act sections 6 and 8 authorize this information collection. *See* 29 U.S.C. 655, 657.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0224.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on July 31, 2017. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on April 25, 2017 (82 FR 19090).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0224. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–OSHA.

Title of Collection: Overhead and Gantry Cranes Standard.

OMB Control Number: 1218–0224.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 31,495.

Total Estimated Number of Responses: 642,566.

Total Estimated Annual Time Burden: 321,345 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: July 25, 2017.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017–16030 Filed 7–28–17; 8:45 am]

BILLING CODE 4510–26–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0065]

Information Collection: NRC Form 5, ''Occupational Dose Record for a Monitoring Period''

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, NRC Form 5, ''Occupational Dose Record for a Monitoring Period.''

DATES: Submit comments by August 30, 2017.

ADDRESSES: Submit comments directly to the OMB reviewer at: Aaron Szabo, Desk Officer, Office of Information and Regulatory Affairs (3150–0006), NEOB–10202, Office of Management and Budget, Washington, DC 20503; telephone: 202–395–3621, email: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0065 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0065.

• *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.* A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession No. ML17171A255. The supporting statement and Cumulative Occupational Exposure History is available in ADAMS under Accession No. ML17163A136.

• *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.

• *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@NRC.GOV.*

B. Submitting Comments

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

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

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, ''NRC Form 5, Occupational Dose Record for a Monitoring Period.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on April 7, 2017 (82 FR 17044).

1. *The title of the information collection:* NRC Form 5, Occupational Dose Record for a Monitoring Period.

2. *OMB approval number:* 3150–0006.

3. *Type of submission:* Extension.

4. *The form number if applicable:* NRC Form 5.

5. *How often the collection is required or requested:* Annually.

6. *Who will be required or asked to respond:* NRC licensees who are required to comply with part 20 of title 10 of the *Code of Federal Regulations* (10 CFR).

7. *The estimated number of annual responses:* 4,339 responses (198 reporting responses plus 4,141 recordkeepers).

8. *The estimated number of annual respondents:* 4,141 respondents (99 reactors plus 4,042 materials licenses).

9. *An estimate of the total number of hours needed annually to comply with the information collection requirement or request:* 125,373 hours (5,940 hours reporting plus 119,443 hours recordkeeping).

10. *Abstract:* NRC Form 5 is used to record and report the results of individual monitoring for occupational radiation exposure during a monitoring period (one calendar year) to ensure regulatory compliance with annual radiation dose limits specified in 10 CFR 20.1201.

Dated at Rockville, Maryland, this 25th day of July, 2017.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2017–16035 Filed 7–28–17; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81201; File No. SR–NYSEArca-2017–06]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 2, Relating to the Listing and Trading of Shares of the Bitcoin Investment Trust Under NYSE Arca Equities Rule 8.201

July 25, 2017.

On January 25, 2017, NYSE Arca, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares of the Bitcoin Investment Trust under NYSE Arca Equities Rule 8.201. The proposed rule change was published for comment in the **Federal Register** on February 9, 2017.[3]

On March 22, 2017, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.[5] On April 6, 2017, the Exchange filed Amendment No. 1 to the proposed rule change. On April 27, 2017, the Commission published notice of Amendment No. 1 and instituted proceedings to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.[6] On May 11, 2017, the Exchange filed Amendment No. 2 to the proposed rule change, and on May 25, 2017, the Commission published notice of Amendment No. 2.[7] The Commission has received fourteen comment letters on the proposed rule change.[8]

Section 19(b)(2) of the Act [9] provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the **Federal Register** on February 9, 2017. August 8, 2017 is 180 days from that date, and October 7, 2017 is 240 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider this proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[10] designates October 7, 2017 as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR–NYSEArca–2017–06).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–15992 Filed 7–28–17; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 79955 (Feb. 3, 2017), 82 FR 10086 (Feb. 9, 2017).

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 80297 (Mar. 22, 2017), 82 FR 15408 (Mar. 28, 2017).

[6] *See* Securities Exchange Act Release No. 80502 (Apr. 21, 2017), 82 FR 19398 (Apr. 27, 2017). Specifically, the Commission instituted proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be ''designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade,'' and ''to protect investors and the public interest.'' *See id.* at 19411–12.

[7] *See* Securities Exchange Act Release No. 80729 (May 19, 2017), 82 FR 24185 (May 25, 2017).

[8] All comments on the proposed rule change are available on the Commission's Web site at: *https://www.sec.gov/comments/sr-nysearca-2017-06/nysearca201706.htm.*

[9] 15 U.S.C. 78s(b)(2).

[10] *Id.*

[11] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81204; File No. SR–MRX–2017–02]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Order Approving Proposed Rule Change To Amend Various Rules in Connection With a System Migration to Nasdaq INET Technology

July 25, 2017.

I. Introduction

On May 17, 2017, the Nasdaq MRX, LLC (''MRX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend various Exchange rules in connection with a system migration to Nasdaq, Inc. (''Nasdaq'') supported technology. The proposed rule change was published for comment in the **Federal Register** on June 5, 2017.[3] On July 14, 2017, the Commission designated a longer period for Commission action on the proposed rule change, until September 3, 2017.[4] The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

II. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[5] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[6] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 80815 (May 30, 2017), 82 FR 25827 (''Notice'').

[4] *See* Securities Exchange Act Release No. 81151 (July 14, 2017, 82 FR 33527 (July 20, 2017).

[5] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f(b)(5).

general, to protect investors and the public interest. As noted above, the Commission received no comment letters regarding the proposed rule change.

The Exchange proposes to amend various Exchange rules to reflect the MRX system migration to a Nasdaq INET technology.[7] In connection this system migration, as discussed below, the Exchange intends to adopt certain trading functionality currently utilized on Nasdaq Exchanges.[8]

A. Trading Halts

1. Cancellation of Quotes

The Exchange proposes to amend MRX Rule 702 (Trading Halts) to conform the treatment of orders and quotes on the Exchange to Phlx Rule 1047(f). Specifically, the Exchange proposes to amend Rule 702(a)(2) to provide that during a halt the Exchange will maintain existing orders on the book but not existing quotes. Pursuant to the revision, during the halt, the Exchange will accept orders and quotes and, for such orders and quotes, process cancels and modifications. Currently, the Exchange maintains existing orders *and* quotes during a trading halt. With respect to cancels and modifications during a trading halt, the Exchange represents that the current process on MRX will not change under the proposed rule change.[9]

The Exchange represents that its proposal to maintain existing orders on the book but not existing quotes during a halt would provide market participants with clarity as to the manner in which interests will be handled by the system.[10] The Exchange believes that, during a trading halt, the market may move and create risk to market participants with respect to resting interests.[11]

The Commission believes that that cancelling existing quotes during a trading halt would provide market participants the opportunity to update potentially stale quotes. Further, the Commission notes that the Exchange will process cancels and modifications for orders as well as quotes received during a halt. Finally, the Commission further notes that the proposed treatment of quotes during a halt is consistent with existing Phlx Rule 1047(f).

2. Limit Up-Limit Down

The Exchange proposes to replace existing MRX Rule 703A (Trading During Limit Up-Limit Down States in Underlying Securities) with proposed MRX Rule 702(d).[12] Specifically, proposed MRX Rule 702(d) will provide that during a Limit State and Straddle State in the underlying NMS stock [13] the Exchange will not open an affected option.[14] However, provided the Exchange has opened an affected option for trading, the Exchange will: (i) Reject Market Orders [15] and notify members of the reason for such rejection; [16] (ii) continue to process Market Orders exposed at the NBBO, pursuant to Supplementary Material .02 to ISE Rule 1901, pending in the system, and cancel such Market Order if at the end of the exposure period the affected underlying is in a Limit or Straddle State; [17] and (iii) elect Stop Orders if the condition as provided in MRX Rule 715(d) is met, and, because such orders become Market Orders, cancel them back and notify members of the reason for such rejection.[18] Moreover, when the security underlying an option class is in a Limit State or Straddle State, the Exchange will suspend the maximum quotation spread requirements for market maker quotes in MRX Rule 803(b)(4) and the continuous quotation requirements in MRX Rule 804(e).[19] Additionally, the Exchange will not consider the time periods associated with Limit States and Straddle States when evaluating whether a market maker has complied with its continuous quotation requirements in MRX Rule 804(e).[20]

The Commission believes that the proposed Rule 702(d) would provide certainty to market participants regarding the manner in which Limit or Straddle States would impact the opening process as well as Market Orders and Stop Orders. The Commission believes that the rejection of Market Orders (including elected Stop Orders) is reasonably designed to potentially prevent executions of un-priced orders during times of significant volatility.[21] The Commission also notes that processing rather than cancelling existing Market Orders is reasonable because these Market Orders are only pending in the system if they are exposed at the NBBO pursuant to Supplementary Material .02 to ISE Rule 1901 and would, in any case, be cancelled if at the end of the exposure period the affected underlying is still in a Limit or Straddle State.[22] Further, the Commission believes that it is reasonable to permit the election of Stop Orders that are pending in the system during a Limit or Straddle State, since, upon election, the orders would be cancelled back to the members.[23] Lastly, the Commission notes that proposed MRX Rule 702(d)(4) is substantively identical to existing MRX Rule 703A(c), which is being deleted.

[7] INET is utilized across Nasdaq's markets, including The NASDAQ Options Market LLC (''NOM''), NASDAQ PHLX LLC (''Phlx''), and NASDAQ BX, Inc. (collectively, the ''Nasdaq Exchanges''). *See* Notice, *supra* note 3, at 25827. The Commission also recently approved Nasdaq ISE, LLC's (formerly International Securities Exchange, LLC) (''ISE'') and Nasdaq GEMX, LLC's (formerly ISE Gemini, LLC) migrations to INET. *See* Securities Exchange Act Release Nos. 80225 (March 13, 2017), 82 FR 14243 (March 17, 2017) (SR–ISE–2017–02); 80432 (April 11, 2017), 82 FR 18191 (April 17, 2017) (SR–ISE–2017–03); 80011 (February 10, 2017), 82 FR 10927 (February 16, 2017) (SR–ISEGemini–2016–17); 80014 (February 10, 2017), 82 FR 10952 (February 16, 2017) (SR–ISEGemini–2016–18).

[8] *See* Notice, *supra* note 3, at 25827. The Exchange anticipates that it will begin implementation of the proposed rule changes in the third quarter of 2017. *See id.* According to the Exchange, the system migration will be on a symbol by symbol basis. The Exchange will issue an alert to members in the form of an Options Trader Alert to provide notification of the symbols that will migrate and the relevant dates. *See id.* The Exchange has also separately filed a companion proposed rule change to amend the Exchange's opening process in connection with the system migration to INET technology. *See* Securities Exchange Act Release No. 80937 (June 15, 2017), 82 FR 28113 (June 20, 2017) (SR–MRX–2017–01). The Exchange proposes to replace its current opening process at Rule 701 with Phlx's opening process. *See* Phlx Rule 1017.

[9] *See* Notice, *supra* note 3, at 25827.

[10] *See* Notice, *supra* note 3, at 25834.

[11] *See id.*

[12] The Exchange represents that proposed MRX Rule 702(d) is similar to Phlx Rule 1047(d). *See* Notice, *supra* note 3, at 25828.

[13] Proposed MRX Rule 702(d) states that capitalized terms used in Rule 702(d) will have the same meaning as provided for in the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS, as it may be amended from time to time.

[14] *See* proposed MRX Rule 702(d)(1). The Exchange states that its rules do not currently address the opening rotation in the event that the underlying NMS stock is open but has entered into a Limit or Straddle State. *See* Notice, *supra* note 3, at 25828.

[15] For the definition of the term ''Market Orders,'' *see* MRX Rule 715(a).

[16] *See* proposed MRX Rule 702(d)(2).

[17] *See* proposed MRX Rule 702(d)(2). If the affected underlying is no longer in a Limit or Straddle State after the exposure period, the Market Order will be processed with normal handling. *See id.* The Exchange currently cancels Market Orders pending in the system upon initiation of a Limit or Straddle State. *See* Notice, *supra* note 3, at 25828.

[18] *See* proposed MRX Rule 702(d)(3). MRX currently does not elect Stop Orders that are pending in the system during a Limit or Straddle State. Under the proposal, the Exchange will elect Stop Orders that are pending in the system during a Limit or Straddle State, if conditions for such election are met; however, because such orders become Market Orders, they will be cancelled back to the member with a reason for such rejection. *See* Notice, *supra* note 3, at 25828.

[19] *See* proposed MRX Rule 702(d)(4).

[20] *See id.*

[21] *See* Notice, *supra* note 3, at 25834.

[22] *See* Notice, *supra* note 3, at 25835.

[23] *See id.*

3. Auction Handling During a Trading Halt

The Exchange proposes to amend certain rules to account for the impact of a trading halt on the Exchange's auction mechanisms. First, the Exchange proposes to amend MRX Rule 723 (Price Improvement Mechanism for Crossing Transactions) regarding the manner in which a trading halt will impact an order entered into the Price Improvement Mechanism (''PIM''). Today, if a trading halt is initiated after an order is entered into the PIM, the Exchange terminates such auction and eligible interest is executed.[24] The Exchange proposes to amend the current process by terminating the auction and not executing eligible interest when a trading halt occurs.[25] Similarly, the Exchange also proposes to amend to MRX Rule 716 (Block Trades) to state that, if a trading halt is initiated after an order is entered into the Block Order Mechanism, Facilitation Mechanism, or Solicited Order Mechanism, the Exchange will automatically terminate such auction without execution.[26]

The Exchange believes that its proposal to terminate the PIM auction, Block Order Mechanism, Facilitation Mechanism, and Solicited Order Mechanism and not execute eligible interest when a trading halt occurs will provide certainty to participants regarding how their interest will be handled.[27] The Exchange believes that, during a trading halt, the market may move and create risk to market participants with respect to resting interest.[28] The Commission believes that the proposed rule is consistent with the Act and provides transparency and clarity regarding the handling of these orders during a trading halt.

B. Market Order Spread Protection

The Exchange proposes to amend MRX Rule 711 (Acceptance of Quotes and Orders) by adopting a new mandatory risk protection entitled Market Order Spread Protection which will apply to Market Orders.[29] Pursuant to proposed MRX Rule 711(c), if the NBBO is wider than a preset threshold at the time a Market Order is received by the Exchange, the Exchange will reject the order. The Exchange will notify members of the threshold with a notice, and, thereafter, will notify members of any subsequent changes to the threshold.[30] The Exchange represents that the Market Order Spread Protection will be the same for all options traded on the Exchange and is applicable to all members that submit Market Orders.[31]

The Exchange believes, and the Commission concurs, that the proposed Market Order Spread Protection would help mitigate risks associated with trading errors and help reduce the number of executions at dislocated prices.[32] The Commission also notes that the protection is similar to a mandatory feature currently offered on NOM.[33]

C. Acceptable Trade Range

Today, MRX offers a Price Level Protection that places a limit on the number of price levels at which an incoming order or quote to sell (buy) would be executed automatically when there are no bids (offers) from other exchanges at any price for the options series.[34] The Exchange proposes to replace the current Price Level Protection with Phlx's Acceptable Trade Range.[35] The Exchange states that the proposed Acceptable Trade Range is a mechanism designed to prevent the system from experiencing dramatic price swings by preventing the market from moving beyond set thresholds.[36] The system will calculate an Acceptable Trade Range to limit the range of prices at which an order or quote will be allowed to execute.[37] Upon receipt of a new order or quote, the Acceptable Trade Range is calculated by taking the reference price, plus or minus a value to be determined by the Exchange, where the reference price is the National Best Bid (''NBB'') for sell orders/quotes and the National Best Offer (''NBO'') for buy orders/quotes. Accordingly, the Acceptable Trade Range is: the reference price − (x) for sell orders/quotes; and the reference price + (x) for buy orders.[38] If an order or quote reaches the outer limit of the Acceptable Trade Range (the ''Threshold Price'') without being fully executed, then any unexecuted balance will be cancelled.[39] The Acceptable Trade Range will not be available for All-or-None Orders.[40]

The Exchange represents that it will set the Acceptable Trade Range at levels to ensure that it is triggered infrequently.[41] While the Acceptable Trade Range settings will be tied to the option premium, other factors will be considered when determining the exact settings.[42] For example, the Exchange states that acceptable ranges may change if market-wide volatility is high or if overall market liquidity is low based on historical trends.[43] To ensure a well-functioning market, the Exchange believes that different market conditions may require adjustments to the threshold amounts from time to time.[44] Further, while the Acceptable Trade Range settings will generally be the same across all options traded on the Exchange, MRX proposes to set them separately based on characteristics of the underlying security.[45] For example, the Exchange has generally observed that options subject to the Penny Pilot program quote with tighter spreads than options not subject to the Penny Pilot. Accordingly, the Exchange will set Acceptable Trade Ranges for three categories of options: (1) Penny Pilot Options trading in one cent increments for options trading at less than $3.00 and increments of five cents for options trading at $3.00 or more; (2) Penny Pilot

[24] *See* Notice, *supra* note 3, at 25829.

[25] *See* proposed MRX Rule 723(d)(5).

[26] *See* proposed subsections (c)(3), (d)(3)(iv), and (e)(2)(iv) of MRX Rule 716. The Exchange represents that this proposed amendment represents the current process on MRX and is generally consistent with Phlx Rule 1047(c). *See* Notice, *supra* note 3, at 25829.

[27] *See* Notice, *supra* note 3, at 25835.

[28] *See id.*

[29] The Exchange states that this mandatory feature is currently offered on NOM to protect Market Orders from being executed in very wide markets. *See* Notice, *supra* note 3, at 25829. *See also* NOM Rules at Chapter VI, Section 6(c).

[30] *See* Notice, *supra* note 3, at 25829. The Exchange proposes to initially set the threshold to $5, similar to the threshold set on NOM. *See id.* The Exchange states that NOM set the differential at $5 to match the maximum bid/ask differential permitted for quotes on that exchange. *See id.* MRX also uses a similar $5 differential. *See id.*

[31] *See* Notice, *supra* note 3, at 25829.

[32] *See* Notice, *supra* note 3, at 25835.

[33] *See* NOM Rules at Chapter VI, Section 6(c).

[34] *See* Notice, *supra* note 3, at 25829; MRX Rule 714(b)(1).

[35] *See* Phlx Rule 1080(p). Unlike Phlx, MRX does not offer a general continuous re-pricing mechanism. *See id.* Accordingly, the Exchange states that the proposed Acceptable Trade Range will not include the posting period functionality available today on Phlx. *See* Notice, *supra* note 3, at 25830, n.15. The Exchange will not post interest that exceeds the outer limit of the Acceptable Trade Range; rather the interest will be cancelled. *See* Notice, *supra* note 3, at 25830. Orders that do not exceed the outer limit of the Acceptable Trade Range will post to the order book and will reside on the order book at such price until they are either executed in full or cancelled by the member. *See id.*

[36] *See* Notice, *supra* note 3, at 25830.

[37] *See* proposed MRX Rule 714(b)(1)(i).

[38] The Exchange states that the Acceptable Trade Range settings are tied to the option premium. *See* Notice, *supra* note 3, at 25830, n.16. A table consisting of several steps based on the premium of an option will be displayed on the Exchange Web site and used to determine how far the market for a given option will be allowed to move. *See* Notice, *supra* note 3, at 25831. Updates to the table would be announced via an Exchange alert, generally the prior day. *See id.*

[39] *See* proposed MRX Rule 714(b)(1)(ii).

[40] *See* proposed MRX Rule 714(b)(1)(ii). Today, MRX's Price Level Protection rule is also not available for All-or-None Orders. *See* Notice, *supra* note 3, at 25830, n.17.

[41] *See* Notice, *supra* note 3, at 25830.

[42] *See* Notice, *supra* note 3, at 25831.

[43] *See id.*

[44] *See id.*

[45] *See id.*

Options trading in one-cent increments for all prices; and (3) Non-Penny Pilot Options.[46]

The Exchange represents that the Acceptable Trade Range should prevent the system from experiencing dramatic price swings by preventing the market from moving beyond set thresholds.[47] The Commission believes that the Acceptable Trade Range is reasonably designed to prevent executions of orders and quotes at prices that are significantly worse than the NBBO at the time of an order's submission and may reduce the potential negative impacts of unanticipated volatility in individual options. Further, the Commission notes that the proposed Acceptable Trade Range is similar to an existing mechanism on Phlx.[48]

D. PMM Order Handling and Opening Obligations

The Exchange proposes to eliminate the Primary Market Maker (''PMM'') order handling and opening obligations in MRX Rule 803(c).[49] As described above, with the migration of MRX to the Nasdaq INET architecture, the Exchange is adopting the Acceptable Trade Range and opening rotation functionality currently offered on NOM and Phlx, which do not contain similar requirements for the PMMs as in MRX Rule 803(c).

The Exchange represents that PMMs' current obligations are no longer necessary due to the introduction of the Acceptable Trade Range and proposed changes to the Exchange's opening process.[50] The Exchange states that its proposal to conform the Exchange's opening process to Phlx Rule 1017 will result in an opening initiated by the receipt of an appropriate number of valid width quotes by the PMM or Competitive Market Maker, instead of an opening process initiated by a PMM.[51] Similarly, the Exchange believes the proposed Acceptable Trade Range functionality will continue to provide order protection to members without imposing any PMM obligations.[52] The Exchange further represents that NOM and Phlx do not impose similar PMM order handling and opening obligations.[53] Accordingly, the Commission believes that these changes are consistent with the Act.

E. Back-Up PMM

The Exchange proposes to amend Supplementary Material .03 to MRX Rule 803 to eliminate Back-Up PMMs. Today, any MRX member that is approved to act in the capacity of a PMM or an ''Alternative Primary Market Maker'' may voluntarily act as a Back-Up PMM in an options series in which it is quoting as a Competitive Market Maker (''CMM'').[54] With the technology migration, the Exchange believes that a Back-Up PMM is no longer necessary because under INET the Exchange will not utilize the order handling obligations present on the Exchange today.[55] The Exchange further represents that the proposed new opening process obviates the importance of such a role because it would no longer rely on a market maker to initiate the opening process.[56] Accordingly, the Commission believes that these changes are consistent with the Act.

F. Market Maker Speed Bump

The Exchange proposes to amend MRX Rule 804 (Market Maker Quotations) to establish default parameters for certain risk functionality. The Exchange currently offers a risk protection mechanism for market maker quotes that removes a member's quotes in an options class if a specified number of curtailment events occur during a set time period (''Market Maker Speed Bump'').[57] In addition, the Exchange offers a market-wide risk protection that removes a market maker's quotes across all classes if a number of curtailment events occur (''Market-Wide Speed Bump'').[58] MRX Rule 804(g) currently requires that market makers set curtailment parameters for both the Market Maker Speed Bump and the Market-Wide Speed Bump. Today, if a market maker does not set these parameters, for each Market Maker Speed Bump and the Market-Wide Speed Bump, the system rejects their quotes.[59] With the technology migration, the Exchange proposes to provide default curtailment parameters, which will be determined by the Exchange and announced to members.[60] The Commission believes that this change is consistent with the Act and notes that, although the Exchange will establish default curtailment settings, market makers will have discretion to set different curtailment settings appropriate for their trading and risk tolerance.

G. Anti-Internalization

The Exchange proposes to amend Supplementary Material .03 to MRX Rule 804 (Market Maker Quotations) to adopt an anti-internalization rule. Today, MRX's functionality prevents Immediate-or-Cancel orders entered by a market maker from trading with the market maker's own quote.[61] The Exchange proposes to replace this self-trade protection with anti-internalization functionality currently offered on Phlx.[62] The Exchange proposes to provide that quotes and orders entered by market makers using the same member identifier will not be executed against quotes and orders entered on the opposite side of the market by the same market maker using the same member identifier. In such a case, the system will cancel the resting quote or order back to the entering party prior to execution. The proposed anti-internalization functionality will not apply in any auction. The Exchange states that this proposed functionality does not modify the duty of best execution owed to public customer orders.[63]

The Exchange represents that the proposal is designed to assist market makers in reducing trading costs from unwanted executions potentially resulting from the interaction of executable interest from the same firm performing the same market making function.[64] The Commission believes that the proposed rule is reasonably designed to prevent the unwanted execution of quotes and orders entered

[46] *See* proposed MRX Rule 714(b)(1)(iii).

[47] *See* Notice, *supra* note 3, at 25835.

[48] *See* Notice, *supra* note 3, at 25829; Phlx Rule 1080(p).

[49] MRX Rule 803(c) provides that, in addition to the obligations contained in Rule 803 for market makers generally, for options classes to which a market maker is the appointed PMM, the PMM shall have the responsibility to: (1) As soon as practical, address Priority Customer Orders that are not automatically executed pursuant to Rule 714(b)(1) in a manner consistent with its obligations under Rule 803(b) by either (i) executing all or a portion of the order at a price that at least matches the NBBO and that improves upon the Exchange's best bid (in the case of a sell order) or the Exchange's best offer (in the case of a buy order); or (ii) releasing all or a portion of the order for execution against bids and offers on the Exchange; and (2) initiate trading in each series pursuant to Rule 701 (Trading Rotations).

[50] *See* Notice, *supra* note 3, at 25832. *See also supra* note 8.

[51] *See* Notice, *supra* note 3, at 25831–32. *See also supra* note 8.

[52] *See* Notice, *supra* note 3, at 25832. The Exchange states that Phlx does not currently have similar roles for a Specialist on its market. *See id.*

[53] *See* Notice, *supra* note 3, at 25831.

[54] *See* MRX Rule 803, Supplementary Material .03.

[55] *See* Notice, *supra* note 3, at 25832.

[56] *See* Notice, *supra* note 3, at 25832. *See also supra* note 8.

[57] *See* MRX Rule 804(g)(1).

[58] *See* MRX Rule 804(g)(2).

[59] *See* Notice, *supra* note 3, at 25832.

[60] *See id.*

[61] *See id.*

[62] *See* Phlx Rule 1080(p)(2).

[63] *See* Notice, *supra* note 3, at 25833.

[64] *See* Notice, *supra* note 3, at 25833, n.33.

by market makers using the same member identifier.

H. Minimum Execution Quantity Orders

The Exchange proposes to amend MRX Rule 715 (Types of Orders) to remove minimum quantity orders in subpart (q).[65] The Exchange states that members have not adopted this feature, and therefore proposes to remove this order type.[66] Furthermore, the Exchange proposes to remove two references to minimum quantity orders in Supplementary Material .02 to MRX Rule 713 and in Supplementary Material .04 to MRX Rule 717.

The Exchange states that removing the minimum quantity order type would simplify functionality available on the Exchange and reduce the complexity of its order types.[67] The Exchange further represents that members have not adopted this feature.[68] Accordingly, the Commission believes it is appropriate for the Exchange to remove references to the minimum quantity order type.

I. Cancel and Replace Orders

The Exchange proposes to amend Supplementary Material .02 to MRX Rule 715 (Types of Orders) to memorialize how the Exchange system will handle cancel and replace orders in connection with the Exchange's technology migration to INET.[69] Currently, Exchange members can send a Cancel and Replace Order in one message, which allows the replacement order to retain the time priority of the cancelled order, subject to certain exceptions.[70] However, currently the Exchange does not apply price or other reasonability checks to the replacement order for all Cancel and Replace Orders.[71] For example, the Exchange notes that currently, a Cancel and Replace Order which reduced the size of an original order from 600 to 300 contracts would not be subject to price or other reasonability checks.[72]

The Exchange now proposes to define the Cancel and Replace Order to ensure that price and other reasonability checks are applied to Cancel and Replace Orders.[73] The Exchange proposes to define a Cancel and Replace Order as a single message for the immediate cancellation of a previously received order and the replacement of that order with a new order. If the previously placed order is already partially filled or in its entirety, the replacement order is automatically canceled or reduced by the number of contracts that were executed. Additionally, the replacement order will retain the priority of the cancelled order, if the order posts to the order book, provided the price is not amended, size is not increased, or in the case of Reserve Orders, size is not changed. However, if the replacement portion of a Cancel and Replace Order does not satisfy the system's price or other reasonability checks the existing order will be cancelled and not replaced.[74]

The Exchange represents that conducting price or other reasonability checks for all Cancel and Replace Orders will validate orders against current market conditions prior to proceeding with the request to modify the order.[75] The Exchange further believes that memorializing Cancel and Replace Order handling will add transparency to the Exchange's rules and reduce the potential for investor confusion.[76]

The Commission notes that other exchanges with a similar order type permit an order to retain priority if only the size of the order is decremented.[77] Accordingly, the Commission believes it is appropriate for the Exchange to define Cancel and Replace Orders in the manner proposed.

J. All-Or-None Orders

The Exchange proposes to amend MRX Rule 715(c) to provide that All-Or-None Orders[78] may only be entered into the Exchange's system with a time-in-force designation of Immediate-Or-Cancel.[79] Currently, the Exchange allows users to submit All-Or-None Orders with any time-in-force designation. As proposed, an All-Or-None Order would be required to be submitted as an Immediate-Or-Cancel Order and thus will either execute in its entirety or be cancelled. Because All-Or-None Orders will either be executed or cancelled, the Exchange also proposes to remove language stating that All-Or-None Orders can be maintained in the system in Supplementary Material .02 to MRX Rule 713 and to delete Supplementary Material .04 to Rule 717, which concerns the exposure of non-marketable All-Or-None Orders.[80]

The Exchange states that this change would remove uncertainty with respect to the manner in which All-Or-None Orders would be handled in the order book, because the All-Or-None Order would be canceled if it cannot be immediately executed in its entirety.[81] Accordingly, the Commission believes it is appropriate for the Exchange to require that All-Or-None Orders be entered with a time-in-force designation of Immediate-Or-Cancel.

K. Delay of Implementation of Directed Orders

Currently, MRX rules provide for the use of Directed Orders.[82] The Exchange proposes to amend MRX Rule 811 (Directed Orders) to note that this functionality will not be available as of a certain date in the third quarter of 2017 to be announced in a notice. The Exchange represents that it will recommence the Directed Orders functionality on MRX within one year from the date of the filing of the proposed rule change. Otherwise, the Exchange will file a rule proposal with the Commission to remove these rules.

The Exchange represents that it proposes to delay the implementation of the Directed Order functionality on MRX to provide the Exchange additional time to rebuild the required technology on the new platform.[83] The Exchange further represents that members have been given adequate notice of the implementation dates and

[65] A Minimum Quantity Order is an order that is initially available for partial execution only for a specified number of contracts or greater. A member may specify whether any subsequent executions of the order must also be for the specified number of contracts or greater, or if the balance may be executed as a regular order. If all executions are to be for the specified number of contracts or greater and the balance of the order after one or more partial execution(s) is less than the minimum, such balance is treated as all-or-none. *See* MRX Rule 715(q).

[66] *See* Notice, *supra* note 3, at 25833.

[67] *See* Notice, *supra* note 3, at 25836.

[68] *See* Notice, *supra* note 3, at 25833.

[69] *See id.*

[70] *See id.* The Exchange notes that, instead of sending a Cancel and Replace Order, a Member can separately send a cancellation message and a new order, for which the Exchange would apply price or other reasonability checks, but the new order would not retain the priority of the original order. *See id.* This behavior will not change. *See id.*

[71] *See* Notice, *supra* note 3, at 25833.

[72] *See id.*

[73] *See* proposed MRX Rule 715, Supplementary Material .02.

[74] Price and reasonability checks that would be applied include MRX Rule 710 (Minimum Trading Increments), MRX Rule 711(c) (proposed Market Order Spread Protection) and MRX Rule 714(b)(2) (Limit Order Price Protection). *See* Notice, *supra* note 3 at 25833, n.40. The Exchange also notes that, as for other orders, the Exchange may cancel an order because it does not satisfy a format or other requirement specified in the Exchange's rules and specifications. *See id.*

[75] *See* Notice, *supra* note 3 at 25836.

[76] *See id.*

[77] *See id.; see* Phlx Rule 1080(b)(i)(A).

[78] An All-Or-None Order is a limit or market order that is to be executed in its entirety or not at all. *See* MRX Rule 715(c).

[79] An Immediate-Or-Cancel Order is a limit order that is to be executed in whole or in part upon receipt, and any portion not so executed is to be treated as cancelled. *See* MRX Rule 715(b)(3).

[80] *See* Notice, *supra* note 3, at 25834.

[81] *See* Notice, *supra* note 3, at 25837.

[82] *See* MRX Rule 811.

[83] *See* Notice, *supra* note 3, at 25836.

that the Exchange will provide further notifications to members to ensure clarity about the delay of implementation of these functionalities.[84] The Commission believes that the proposed rule change helps ensure clarity about the delay of implementation of this functionality.

For these reasons, the Commission believes that the proposed rule change is consistent with the Act.

IV. Conclusion

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[85] that the proposed rule change (SR–MRX–2017–02) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[86]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–15994 Filed 7–28–17; 8:45 am]

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[84] *See id.*

[85] 15 U.S.C. 78s(b)(2).

[86] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81199; File No. SR–CTA/CQ–2017–03]

Consolidated Tape Association; Notice of Filing and Immediate Effectiveness of the Twenty-Eight Substantive Amendment to the Second Restatement of the CTA Plan and the Twentieth Amendment to the Restated CQ Plan

July 25, 2017.

Pursuant to Section 11A of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 608 thereunder,[2] notice is hereby given that on June 30, 2017, the Consolidated Tape Association (''CTA'') Plan participants (''Participants'') [3] filed with the Securities and Exchange Commission (''Commission'') a proposal to amend the Second Restatement of the CTA Plan and the Restated Consolidated Quotation (''CQ'') Plan (''Plans'').[4] These amendments represent the Twenty-Eighth Substantive Amendment to the CTA Plan and the Twentieth Amendment to the CQ Plan (''Amendments''). The Amendments seek to amend the Plans in order to reflect changes to the names and addresses of certain Participants, as set forth in Section III(a) of the Plans. Pursuant to Rule 608(b)(3)(ii) under Regulation NMS,[5] the Participants designate the Amendments as concerned solely with the administration of the Plans and as ''Ministerial Amendments'' under both Section IV(b) of the CTA Plan and Section IV(c) of the CQ Plan. As a result, the Amendments were effective upon filing and were submitted by the Chairman of the Plan's Operating Committee. The Commission is publishing this notice to solicit comments from interested persons on the proposed Amendments.

I. Rule 608(a)

A. Purpose of the Amendments

The Amendments effectuate changes that certain Participants have made to their names and addresses, as set forth in Section III(a) of the Plans.

B. Governing or Constituent Documents

Not applicable.

C. Implementation of the Amendments

Because the Amendments constitute ''Ministerial Amendments'' under both Section IV(b) of the CTA Plan and Section IV(c) under the CQ Plan, the Chairman of the Plan's Operating Committee may submit the Amendments to the Commission on behalf of the Participants in the Plans. Because the Participants have designated the Amendments as concerned solely with the administration of the Plans, the Amendments become effective upon filing with the Commission.

D. Development and Implementation Phases

Not applicable.

E. Analysis of Impact on Competition

The Participants assert that the Amendments do not impose any burden on competition because they merely effectuate a change in the names and addresses of certain Participants. For the same reasons, the Participants do not believe that the Amendments introduce terms that are unreasonably discriminatory for purposes of Section 11A(c)(1)(D) of the Exchange Act.

F. Written Understanding or Agreements Relating to Interpretation of, or Participation in, Plan

Not applicable.

G. Approval by Sponsors in Accordance With Plan

See Item I.C. above.

H. Description of Operation of Facility Contemplated by the Proposed Amendments

Not applicable.

I. Terms and Conditions of Access

Not applicable.

J. Method of Determination and Imposition, and Amount of, Fees and Charges

Not applicable.

K. Method and Frequency of Processor Evaluation

Not applicable.

L. Dispute Resolution

Not applicable.

II. Rule 601(a)

A. Equity Securities for Which Transaction Reports Shall be Required by the Plan

Not applicable.

B. Reporting Requirements

Not applicable.

C. Manner of Collecting, Processing, Sequencing, Making Available and Disseminating Last Sale Information

Not applicable.

D. Manner of Consolidation

Not applicable.

E. Standards and Methods Ensuring Promptness, Accuracy and Completeness of Transaction Reports

Not applicable.

F. Rules and Procedures Addressed to Fraudulent or Manipulative Dissemination

Not applicable.

[1] 15 U.S.C. 78k–1.

[2] 17 CFR 242.608.

[3] The Participants are: Bats BYX Exchange, Inc., BATS BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., Chicago Board Options Exchange, Inc., Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange, LLC, Investors' Exchange LLC, NASDAQ BX, Inc., NASDAQ PHLX, Inc., NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE Arca, Inc., NYSE MKT LLC, and NYSE National, Inc.

[4] *See* Securities Exchange Act Release Nos. 10787 (May 10, 1974), 39 FR 17799 (May 20, 1974) (declaring the CTA Plan effective); 15009 (July 28, 1978), 43 FR 34851 (August 7, 1978) (temporarily authorizing the CQ Plan); and 16518 (January 22, 1980), 45 FR 6521 (January 28, 1980) (permanently authorizing the CQ Plan). The most recent restatement of both Plans was in 1995. The CTA Plan, pursuant to which markets collect and disseminate last sale price information for non-NASDAQ listed securities, is a ''transaction reporting plan'' under Rule 601 under the Act, 17 CFR 242.601, and a ''national market system plan'' under Rule 608 under the Act, 17 CFR 242.608. The CQ Plan, pursuant to which markets collect and disseminate bid/ask quotation information for listed securities, is a ''national market system plan'' under Rule 608 under the Act, 17 CFR 242.608.

[5] 17 CFR 242.608(b)(3)(ii).

G. Terms of Access to Transaction Reports

Not applicable.

H. Identification of Marketplace of Execution

Not applicable.

III. Solicitation of Comments

The Commission seeks general comments on the Amendments. Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed Amendments are 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–CTA/CQ–2017–03 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–CTA/CQ–2017–03. 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 Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all written statements with respect to the proposed Amendments that are filed with the Commission, and all written communications relating to the proposed Amendments 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 Web site viewing and printing at the principal office of the Plans. 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–CTA/CQ–2017–03 and should be submitted on or before August 21, 2017.

By the Commission.

Brent J. Fields,

Secretary.

[FR Doc. 2017–16000 Filed 7–28–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81203; File No. SR–NSCC–2017–010]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of a Proposed Rule Change To Expand the Application of the Family-Issued Securities Charge

July 25, 2017.

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 July 10, 2017, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed change consists of amendments to the NSCC Rules and Procedures (''Rules'') [4] in order to (i) expand the application of NSCC's existing family-issued securities charge [5] to apply to all Members, as described below, and (ii) include a definition of ''Family-Issued Security'' as a security that was issued by a Member or by an affiliate of that Member, as described in greater detail below.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On July 10, 2017, NSCC filed this proposed rule change as an advance notice (SR–NSCC–2017–804) with the Commission pursuant to Section 806(e)(1) of the Dodd-Frank Wall Street Reform and Consumer Protection Act entitled the Payment, Clearing, and Settlement Supervision Act of 2010, 12 U.S.C. 5465(e)(1), and Rule 19b–4(n)(1)(i) of the Act, 17 CFR 240.19b–4(n)(1)(i). A copy of the advance notice is *available at http://www.dtcc.com/legal/sec-rule-filings.aspx.*

[4] Terms not defined herein are defined in the Rules, *available at www.dtcc.com/~/media/Files/Downloads/legal/rules/nscc_rules.pdf.*

[5] The family-issued securities charge is currently described in Procedure XV, Section I.(B)(1) of the Rules, *supra* note 4.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, in calculating its Members' required deposits to the Clearing Fund, NSCC excludes positions in Family-Issued Securities of certain Members from its parametric volatility Clearing Fund component (''VaR Charge''), and instead charges an amount calculated by multiplying the absolute value of the long, net unsettled positions in that Member's Family-Issued Securities by a percentage that is no less than 40 percent (''FIS Charge''). The FIS Charge is currently only applied to Members that are rated 5, 6, or 7 on the Credit Risk Rating Matrix (''CRRM''). The proposed change would expand the application of the FIS Charge to the positions in Family-Issued Securities of all Members to help NSCC cover the specific wrong-way risk posed by Family-Issued Securities, as described further below.[6] Therefore, NSCC is proposing to amend (i) Rule 1 (Definitions and Descriptions) to add a definition of ''Family-Issued Security,'' and (ii) Procedure XV (Clearing Fund Formula and Other Matters) to expand the application of the FIS Charge to all Members by moving the description of FIS Charge from Section I.(B)(1) to Sections I.(A)(1) and I.(A)(2) in order to make clear that the FIS Charge would be included as a component of the Clearing Fund formula calculated for all Members.

As a central counterparty, NSCC occupies an important role in the securities settlement system by interposing itself between counterparties to financial transactions and thereby reducing the risk faced by participants and contributing to global financial stability. The effectiveness of a central counterparty's risk controls and the adequacy of its financial resources

[6] Members that do not trade in Family-Issued Securities would not be subject to the FIS Charge.

are critical to achieving these risk-reducing goals. In that context, NSCC continuously reviews its margining methodology in order to ensure the reliability of its margining in achieving the desired coverage. In order to be most effective, NSCC must take into consideration the risk characteristics specific to certain securities when margining those securities.

Among the various risks that NSCC considers when evaluating the effectiveness of its margining methodology are its counterparty risks and identification and mitigation of ''wrong-way'' risk, particularly specific wrong-way risk, defined as the risk that an exposure to a counterparty is highly likely to increase when the creditworthiness of that counterparty deteriorates.[7] NSCC has identified an exposure to specific wrong-way risk when it acts as central counterparty to a Member with respect to positions in Family-Issued Securities. In the event that a Member with unsettled long positions in Family-Issued Securities defaults, NSCC would close out those positions following a likely drop in the credit-worthiness of the issuer, possibly resulting in a loss to NSCC.

In 2015, NSCC proposed to address its exposure to specific wrong-way risk in two ways.[8] First, NSCC proposed to apply the FIS Charge to its Members that are rated a 5, 6, or 7 on the CRRM (*i.e.,* Members on the Watch List).[9] Today, following implementation of the FIS Phase 1 Rule Change, the FIS Charge is applied by excluding positions in Family-Issued Securities of those Members from NSCC's VaR Charge, and instead charging an amount calculated by multiplying the absolute value of the long net unsettled positions in that Member's Family-Issued Securities by a percentage.[10] That percentage is no less than 40 percent and up to 100 percent, and is determined by NSCC based on the Member's rating on the CRRM and on the type of Family-Issued Securities submitted to NSCC. As such, under Procedure XV (1) fixed income securities that are Family-Issued Securities are charged a haircut rate of no less than 80 percent for Members that are rated 6 or 7 on the CRRM, and no less than 40 percent for Members rated 5 on the CRRM; and (2) equity securities that are Family-Issued Securities are charged a haircut rate of 100 percent for Members that are rated 6 or 7 on the CRRM, and no less than 50 percent for Members that are rated 5 on the CRRM. Members that have a rating on the CRRM of 1 through 4 are not currently subject to the FIS Charge. As stated above, Family-Issued Securities present NSCC with specific wrong-way risk such that, in the event that a Member with unsettled long positions in Family-Issued Securities defaults, NSCC would close out those positions following a likely drop in the credit-worthiness of the issuer, possibly resulting in a loss to NSCC. Therefore, the FIS Charge is applied to the unsettled long positions in Family-Issued Securities, which are the positions that NSCC would close out following a Member default, as opposed to the short positions in net unsettled securities. The haircut rates were calibrated based on historical corporate issue recovery rate data, and address the risk that the Family-Issued Securities of a Member would be devalued in the event of that Member's default.

The FIS Charge is currently applied only to Members on the Watch List because these Members present a heightened credit risk to NSCC or have demonstrated higher risk related to their ability to meet settlement, and, as such, at the time the FIS Phase 1 Rule Change was proposed, NSCC believed there was a clear and more urgent need to address NSCC's exposure to specific wrong-way risk presented by these Members' positions in Family-Issued Securities.

Second, NSCC proposed to further evaluate its exposure to wrong-way risk presented by positions in Family-Issued Securities by reviewing the impact of expanding the application of the FIS Charge to positions in Family-Issued Securities of all Members.[11] Following its evaluation, NSCC has determined that the risk characteristics to be considered when margining Family-Issued Securities extend beyond Members' creditworthiness. More specifically, exposure to specific wrong-way risk is based on the correlation to the default of the issuer Member, and NSCC may face this risk with respect to positions in Family-Issued Securities of all of its Members, not only those Members on the Watch List. As such, in order to more effectively mitigate its exposure to specific wrong-way risk, NSCC is proposing to apply the FIS Charge to positions in Family-Issued Securities of all Members.

In order to implement this proposal, NSCC would amend Procedure XV to move the FIS Charge from Section I.(B)(1), where it is currently described as an additional deposit for Members on surveillance, to Sections I.(A)(1) and (2), to include the FIS Charge as a component of the Clearing Fund formula that is calculated for each Member.[12] Under the proposed change, the calculation of the FIS Charge would not change as applied to Members that are rated 5, 6, or 7 on the CRRM. NSCC is proposing to revise the description of the FIS Charge to include Members that are rated 1 through 4 on the CRRM.[13] Specifically, NSCC is proposing to amend the description of the FIS Charge in Procedure XV such that (1) fixed-income securities that are Family-Issued Securities would be charged a haircut rate of no less than 80 percent for Members that are rated 6 or 7 on the CRRM, and no less than 40 percent for Members that are rated 1 through 5 on the CRRM; and (2) equities that are Family-Issued Securities would be charged a haircut rate of 100 percent for Members rated 6 or 7 on the CRRM, and no less than 50 percent for Members that are rated 1 through 5 on the CRRM.

The proposed change would also amend NSCC Rule 1 (Definitions and Descriptions) to include a definition of Family-Issued Securities in order to provide more clarity to the Rules. Under the proposed change, ''Family-Issued Security'' would be defined as a security that was issued by a Member or an affiliate of that Member.

2. Statutory Basis

NSCC believes that the proposed change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered clearing agency. In particular, NSCC believes that the proposed change is consistent with Section 17A(b)(3)(F) of the Act,[14] and Rules 17Ad–22(e)(4)(i), and (6)(i) and

[7] *See Principles for financial market infrastructures,* issued by the Committee on Payment and Settlement Systems and the Technical Committee of the International Organization of Securities Commissions 47 n.65 (April 2012), *available at http://www.bis.org/publ/cpss101a.pdf.*

[8] *See* Securities Exchange Act Release No. 76077 (October 5, 2015), 80 FR 61256 (October 9, 2015), (SR–NSCC–2015–003) (''FIS Phase 1 Rule Change'').

[9] As part of its ongoing monitoring of its membership, NSCC utilizes the CRRM to rate its risk exposures to its Members based on a scale from 1 (the strongest) to 7 (the weakest). Members that fall within the higher risk rating categories (*i.e.,* 5, 6, and 7) are placed on NSCC's ''Watch List,'' and may be subject to enhanced surveillance or additional margin charges, as permitted under the Rules. *See* Rule 2B, Section 4 and Procedure XV, Section I.(B)(1) of the Rules, *supra* note 4. *See also* Securities Exchange Act Release No. 80734 (May 19, 2017), 82 FR 24174 (May 25, 2017), (SR–DTC–2017–002, SR–FICC–2017–006, SR–NSCC–2017–002) (approving proposed changes to the CRRM methodology).

[10] Procedure XV (Clearing Fund Formula and Other Matters), Section I.(B)(1), *supra* note 4.

[11] FIS Phase 1 Rule Change, *supra* note 8.

[12] Procedure XV, Sections I.(A)(1) and (2) and I.(B), *supra* note 4.

[13] Members that are not rated on the CRRM are not subject to the FIS Charge and would not be subject to the FIS Charge under the proposed change.

[14] 15 U.S.C. 78q–1(b)(3)(F).

(v),[15] each promulgated under the Act, for the reasons described below.

Section 17A(b)(3)(F) of the Act requires, in part, that the Rules be designed to promote the prompt and accurate clearance and settlement of securities transactions and to protect investors and the public interest.[16] By enhancing the margin methodology applied to Family-Issued Securities of all Members, the proposal will assist NSCC in collecting margin that more accurately reflects NSCC's exposure to a Member that clears Family-Issued Securities and will assist NSCC in its continuous efforts to improve the reliability and effectiveness of its risk-based margining methodology by taking into account specific wrong-way risk. As such, the proposal will help NSCC, as a central counterparty, promote robust risk management, and thus promote the prompt and accurate clearance and settlement of securities transactions, as well as, in general, protect investors and the public interest, consistent with the requirements of Section 17A(b)(3)(F) of the Act.

Rule 17Ad–22(e)(4)(i) under the Act requires, in part, that each covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by maintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence.[17] The specific wrong-way risk presented by Family-Issued Securities is the risk that, in the event that a Member with unsettled long positions in Family-Issued Securities defaults, NSCC would close out those positions following a likely drop in the credit-worthiness of the issuer, possibly resulting in a loss to NSCC. The haircut rates of the FIS Charge more accurately reflect this risk because they were calibrated based on historical corporate issue recovery rate data, and, therefore, address the risk that the Family-Issued Securities of a Member would be devalued in the event of that Member's default. In this way, NSCC has determined that the margining methodology used in calculating the FIS Charge more accurately reflects the risk characteristics of Family-Issued Securities than applying its VaR Charge, and would permit NSCC to more accurately identify, measure, monitor and manage its credit exposures to those Members with positions in Family-Issued Securities. Further, by expanding the application of the FIS Charge to all Members, the proposed change would assist NSCC in collecting and maintaining financial resources that reflect its credit exposures to those Members. Therefore, NSCC believes the proposed change is consistent with Rule 17Ad–22(e)(4)(i).

Rule 17Ad–22(e)(6)(i) under the Act requires, in part, that each covered clearing agency that provides central counterparty services establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market.[18] Rule 17Ad–22(e)(6)(v) under the Act requires, in part, that each covered clearing agency that provides central counterparty services establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, uses an appropriate method for measuring credit exposure that accounts for relevant product risk factors and portfolio effects across products.[19]

As stated above, Family-Issued Securities present NSCC with specific wrong-way risk that, in the event that a Member with unsettled long positions in Family-Issued Securities defaults, NSCC would close out those positions following a likely drop in the credit-worthiness of the issuer, possibly resulting in a loss to NSCC. Therefore, the haircut rates were calibrated based on historical corporate issue recovery rate data, and address the risk that the Family-Issued Securities of a Member would be devalued in the event of that Member's default, and would more accurately reflect the risk characteristics of Family-Issued Securities than applying its VaR Charge. In this way, the proposal would assist NSCC in maintaining a risk-based margin system that considers, and produces margin levels commensurate with, the risks and particular attributes of Family-Issued Securities. Additionally, NSCC believes application of the FIS Charge to positions in Family-Issued Securities of all Members is an appropriate method for measuring its credit exposures, because the FIS Charge accounts for the risk factors presented by these securities, *i.e.* the risk that these securities would be devalued in the event of a Member default. Therefore, NSCC believes the proposed change is consistent with Rule 17Ad–22(e)(6)(i) and (v).

(B) Clearing Agency's Statement on Burden on Competition

By expanding the application of the FIS Charge to all Members, and, therefore, increasing the amount of margin that Members may be charged under the Rules, the proposed change may impose a burden on competition. However, because the FIS Charge would be imposed on all Members on an individualized basis in an amount reasonably calculated to mitigate the risks posed to NSCC by those Members' positions in Family-Issued Securities, NSCC does not believe any burden on competition imposed by the proposed change would be significant.

Further, NSCC believes that any burden on competition imposed by the proposed change would be both necessary and appropriate in furtherance of the Act.[20] The proposal to expand the application of the FIS Charge to positions in Family-Issued Securities of all Members is necessary for NSCC to limit its credit exposures posed by these securities. Additionally, by permitting NSCC to calculate and collect margin that more accurately reflects the risk characteristics of these securities, the proposed change would assist NSCC in limiting its potential losses from defaults by Members. As stated, the FIS Charge would be imposed on Members on an individualized basis in an amount reasonably calculated to mitigate the risks posed to NSCC by those Members' positions in Family-Issued Securities. In this way, NSCC believes the proposed change would promote the prompt and accurate clearance and settlement of securities transactions and protect investors and the public interest. As such, NSCC believes any burden on competition imposed by the expansion of the application of the FIS Charge to all Members would be necessary and appropriate in furtherance of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NSCC has not received or solicited any written comments relating to this proposal. NSCC will notify the

[15] 17 CFR 240.17Ad–22(e)(4) and (e)(6).

[16] 15 U.S.C. 78q–1(b)(3)(F).

[17] 17 CFR 240.17Ad–22(e)(4)(i).

[18] 17 CFR 240.17Ad–22(e)(6)(i).

[19] 17 CFR 240.17Ad–22(e)(6)(v).

[20] 15 U.S.C. 78q–1(b)(3)(I).

Commission of any written comments received by NSCC.

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–NSCC–2017–010 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR–NSCC–2017–010. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will 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 NSCC and on DTCC's Web site (*http://dtcc.com/legal/sec-rule-filings.aspx*). 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–NSCC–2017–010 and should be submitted on or before August 21, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–15993 Filed 7–28–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81205; File No. SR–MRX–2017–01]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Order Approving Proposed Rule Change, as Modified by Amendment No. 2, To Amend the Exchange Opening Process

July 25, 2017.

I. Introduction

On May 31, 2017, Nasdaq MRX, LLC (''MRX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the Exchange's opening process. On June 14, 2017, the Exchange filed Amendment No. 1 to the proposal. On June 14, 2017, the Exchange withdrew Amendment No. 1 and filed Amendment No. 2 to the proposal, which replaced and superseded the original filing in its entirety. The proposed rule change, as modified by Amendment No. 2, was published for comment in the **Federal Register** on June 20, 2017.[3] The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change, as modified by Amendment No. 2.

II. Description of the Proposal, as Modified by Amendment No. 2

The Exchange proposes to delete the entirety of current MRX Rule 701 and replace the current Exchange opening process with an opening process reflected in proposed MRX Rules 701 and 715(t).[4] The new opening process is similar to the process used by Phlx,[5] as well as the new opening process recently adopted by ISE Gemini, LLC (''ISE Gemini'')[6] and Nasdaq ISE, LLC (''ISE'').[7] The Exchange's current and proposed opening processes are described below.[8]

A. Current Exchange Opening Process

Currently, a Primary Market Maker (''PMM'') on MRX initiates the ''trading rotation'' in a specified options class.[9] The Exchange may direct that one or more trading rotations be employed on any business day to aid in producing a fair and orderly market.[10] For each rotation, except as the Exchange may direct, rotations are conducted in the order and manner the PMM determines to be appropriate under the circumstances.[11] The PMM, with the approval of the Exchange, has the authority to determine the rotation order and manner or deviate from the rotation procedures.[12] Such authority may be exercised before and during a trading rotation.[13] Additionally, two or more trading rotations may be employed simultaneously, if the PMM, with the approval of the Exchange, so determines.[14]

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[21] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 80937 (June 15, 2017), 82 FR 28113 (''Notice'').

[4] The Exchange represents that this proposed rule change is being made in connection with a technology migration to a Nasdaq, Inc. (''Nasdaq'') supported architecture called INET which is utilized on The NASDAQ Options Market LLC, NASDAQ PHLX LLC (''Phlx'') and NASDAQ BX, Inc. *See id.*

[5] *See* Phlx Rule 1017. *See also* Securities Exchange Act Release No. 79274 (November 9, 2016), 81 FR 80694 (November 16, 2016) (SR–Phlx–2016–79).

[6] *See* ISE Gemini Rules 701 and 715(t). *See also* Securities Exchange Act Release No. 10952 (February 10, 2017), 82 FR 10952 (February 16, 2017) (SR–ISEGemini–2016–18).

[7] *See* ISE Rules 701 and 715(t). *See also* Securities Exchange Act Release No. 80225 (March 13, 2017), 82 FR 14243 (March 17, 2017) (SR–ISE–2017–02).

[8] In connection with the new opening process, the Exchange proposes to adopt a new ''Definitions'' section in proposed Rule 701(a), similar to Phlx Rule 1017(a), to define several terms that are used throughout the opening rule. Proposed Rule 701(a) will define: ABBO, ''market for the underlying security,'' Opening Price, Opening Process, Potential Opening Price, Pre-Market BBO, Quality Opening Market, Valid Width Quote, and Zero Bid Market. For definitions of these terms, *see* Notice *supra* note 3 at 28114.

[9] *See* MRX Rule 701(a).

[10] *See* MRX Rule 701(a)(1).

[11] *See* MRX Rule 701(a)(2).

[12] *See* MRX Rule 701(a)(3).

[13] *See* MRX Rule 701(a)(3).

[14] *See* MRX Rule 701(a)(4).

Pursuant to MRX Rule 701(b), the opening rotation for each class of options is held promptly following the opening of the market for the underlying security.[15] In the event the underlying security has not opened within a reasonable time after 9:30 a.m. Eastern Time, the PMM reports the delay to the Exchange and an inquiry is made to determine the cause of the delay.[16] The opening rotation for the affected options series is then delayed until the market for the underlying security has opened, unless the Exchange determines that the interests of a fair and orderly market are best served by opening trading in the options contracts.[17]

Currently, in connection with a trading rotation, MRX Rule 701(c) specifies how transactions may be effected in a class of options after the end of normal trading hours. A trading rotation may be employed whenever the Exchange concludes that such action is appropriate in the interests of a fair and orderly market.[18] The decisions to employ a trading rotation in non-expiring options are disseminated prior to the commencement of such rotation and, in general, the Exchange will commence no more than one trading rotation after the normal close of trading.[19] If a trading rotation is in progress and the Exchange determines that a final trading rotation is needed to assure a fair and orderly market close, the rotation in progress will be halted and a final rotation will begin as promptly as possible.[20] Finally, any trading rotation in non-expiring options conducted after the normal close of trading may not begin until five minutes after news of such rotation is disseminated by the Exchange.[21]

B. Proposed New Opening Process

1. Opening Sweep

At the outset, the Exchange proposes to adopt a new order type, ''Opening Sweep,'' for the new opening process.[22] Proposed Rule 701(b)(1)(i) states that a Market Maker assigned to a particular option may only submit an Opening Sweep if, at the time of entry, that Market Maker has already submitted and maintains a Valid Width Quote.[23] Opening Sweeps may be entered at any price with a minimum price variation applicable to the affected series, on either side of the market, at single or multiple price level(s), and may be cancelled and re-entered.[24] A single Market Maker may enter multiple Opening Sweeps, with each Opening Sweep at a different price level.[25] If a Market Maker submits multiple Opening Sweeps, the system will consider only the most recent Opening Sweep at each price level submitted by such Market Maker in determining the Opening Price (described below).[26] Unexecuted Opening Sweeps will be cancelled once the affected series is open.[27]

2. Interest Included in the Opening Process

The first part of the Opening Process determines what constitutes ''eligible interest.'' The Exchange proposes that eligible interest during the Opening Process [28] will include Valid Width Quotes,[29] Opening Sweeps, and orders.[30] Quotes, other than Valid Width Quotes, will not be included in the Opening Process.[31] All-or-None Orders that can be satisfied, and the displayed and non-displayed portions of Reserve Orders, are considered for execution and in determining the Opening Price throughout the Opening Process.[32] The system will aggregate the size of all eligible interest for a particular participant category at a particular price level for trade allocation purposes pursuant to Rule 713.[33] Only Public Customer interest is routable during the Opening Process.[34]

Market Maker Valid Width Quotes and Opening Sweeps received starting at 9:25 a.m. Eastern Time are included in the Opening Process.[35] Orders entered at any time before an option series opens are included in the Opening Process.[36]

3. Opening Process and Reopening After a Trading Halt

The Exchange proposes that the Opening Process for an option series will be conducted pursuant to proposed Rules 701(f)–(j) on or after 9:30 a.m. Eastern Time if: (1) The ABBO,[37] if any, is not crossed; and (2) the system has received, within two minutes (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's Web site) of the opening trade or quote on the market for the underlying security [38] in the case of equity options, or the receipt of the opening price in the underlying index in the case of index options, or market opening for the underlying security in the case of U.S. dollar-settled foreign currency options, any of the following: (i) A PMM's Valid Width Quote; (ii) the Valid Width Quotes of at least two Competitive Market Makers (''CMM''); or (iii) if no PMM's Valid Width Quote nor two CMMs' Valid Width Quotes within such timeframe, one CMM's Valid Width Quote.[39]

For all options, the underlying security, including indexes, must be

[15] *See* MRX Rule 701(b)(2). For purposes of MRX Rule 701(b)(2), the ''market for the underlying security'' is either the primary listing market, the primary volume market (defined as the market with the most liquidity in that underlying security for the previous two calendar months), or the first market to open the underlying security, as determined by the Exchange on an issue-by-issue basis and announced to the membership on the Exchange's Web site. *See id.*

[16] *See* MRX Rule 701(b)(3).

[17] *See id.* Additionally, the Exchange may delay the commencement of the opening rotation in any class of options in the interests of a fair and orderly market. *See* MRX Rule 701(b)(4).

[18] *See* MRX Rule 701(c)(1). The factors that may be considered include, but are not limited to, whether there has been a recent opening or reopening of trading in the underlying security, a declaration of a ''fast market'' pursuant to MRX Rule 704, or a need for a rotation in connection with expiring individual stock options or index options, an end of the year rotation, or the restart of a rotation which is already in progress. *See id.*

[19] *See* MRX Rule 701(c)(2).

[20] *See* MRX Rule 701(c)(3).

[21] *See* MRX Rule 701(c)(4).

[22] The Exchange proposes to define an ''Opening Sweep'' as a Market Maker order submitted for execution against eligible interest in the system during the Opening Process pursuant to proposed Rule 701(b)(1). *See* proposed Rule 715(t).

[23] All Opening Sweeps in the affected series entered by a Market Maker will be cancelled immediately if that Market Maker fails to maintain a continuous quote with a Valid Width Quote in the affected series. *See* proposed Rule 701(b)(1)(i).

[24] *See* proposed Rule 701(b)(1)(ii).

[25] *See id.*

[26] *See id.* The Exchange proposes to define ''Opening Price'' by cross-referencing proposed Rule 701(h) and (j). *See* proposed Rule 701(a)(3).

[27] *See id.*

[28] The Exchange proposes to define ''Opening Process'' by cross-referencing proposed Rule 701(c). *See* proposed Rule 701(a)(4).

[29] The Exchange proposes to define ''Valid Width Quote'' as a two-sided electronic quotation submitted by a Market Maker that consists of a bid/ask differential that is compliant with MRX Rule 803(b)(4). *See* proposed Rule 701(a)(8).

[30] *See* proposed Rule 701(b).

[31] *See id.*

[32] *See id.*

[33] *See* proposed Rule 701(b)(2).

[34] *See* proposed Rule 701(b).

[35] *See* proposed Rule 701(c).

[36] *See id.*

[37] The Exchange proposes to define ''ABBO'' as the Away Best Bid or Offer. *See* proposed Rule 701(a)(1). The ABBO does not include MRX's market. *See* Notice, *supra* note 3, at 28114.

[38] The Exchange proposes to define ''market for the underlying security'' as either the primary listing market or the primary volume market (defined as the market with the most liquidity in that underlying security for the previous two calendar months), as determined by the Exchange by underlying and announced to the membership on the Exchange's Web site. *See* proposed Rule 701(a)(2).

[39] *See* proposed Rule 701(c)(1). The Exchange represents that it anticipates initially setting the timeframe during which a PMM's Valid Width quote or the presence of at least two CMMs' Valid Width Quotes will initiate the Opening Process at 30 seconds. *See* Notice, *supra* note 3, at 28115 n.18. The Exchange represents that it will provide notice of the initial setting to Members and provide notice if the Exchange determines to reduce the timeframe. *See id.*

open on the primary market for a certain time period as determined by the Exchange for the Opening Process to commence.[40] The Opening Process will stop and an option series will not open if the ABBO becomes crossed or a Valid Width Quote(s) pursuant to proposed Rule 701(c)(1) is no longer present.[41] Once each of these conditions no longer exists, the Opening Process in the affected option series will recommence.[42] The Exchange would wait for the ABBO to become uncrossed before initiating the Opening Process to ensure that there is stability in the marketplace as the Exchange determines the Opening Price.[43]

Proposed Rule 701(c)(3) states that the PMM assigned to a particular equity or index option must enter a Valid Width Quote in 90% of their assigned series not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index. The PMM assigned to a particular U.S. dollar-settled foreign currency option must enter a Valid Width Quote in 90% of their assigned series not later than one minute after the announced market opening.[44] PMMs must promptly enter a Valid Width Quote in the remainder of their assigned series, which did not open within one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening.[45] Furthermore, a CMM that submits a quote pursuant to proposed Rule 701 in any option series when the PMM's quote has not been submitted will be required to submit continuous, two-sided quotes in such option series until such time the PMM submits a quote, after which the Market Maker that submitted such quote will be obligated to submit quotations pursuant to MRX Rule 804(e).[46]

Proposed Rule 701(d) states that the procedure described in proposed Rule 701 will be used to reopen an options series after a trading halt.[47] If there is a trading halt or pause in the underlying security, the Opening Process will recommence irrespective of the specific times listed in proposed Rule 701(c)(1).[48] Unlike the current MRX opening rule, the proposed new opening process does not provide for after-hours trading rotations.[49]

4. Opening With a BBO (No Trade)

Under proposed Rule 701(e), the Exchange will first see if the option series will open for trading with a BBO. If there are no opening quotes or orders that lock or cross each other and no routable orders locking or crossing the ABBO, the system will open with an opening quote by disseminating the Exchange's best bid and offer among quotes and orders (''BBO''), unless all three of the following conditions exist: (i) A Zero Bid Market; [50] (ii) no ABBO; and (iii) no Quality Opening Market.[51]

A ''Quality Opening Market'' is a bid/ask differential applicable to the best bid and offer from all Valid Width Quotes defined in a table to be determined by the Exchange and published on the Exchange's Web site.[52] The calculation of Quality Opening Market is based on the best bid and offer of Valid Width Quotes. The differential between the best bid and offer are compared to reach this determination. The allowable differential, as determined by the Exchange, takes into account the type of security (for example, Penny Pilot versus non-Penny Pilot issue), volatility, option premium, and liquidity. The Quality Opening Market differential is intended to ensure the price at which the Exchange opens reflects current market conditions.

If all three of the conditions described above exist, the Exchange will calculate an Opening Quote Range (''OQR'') pursuant to proposed Rule 701(i) (described below) and conduct the Price Discovery Mechanism (''PDM'') pursuant to proposed Rule 701(j) (described below).[53] The Exchange believes that when these conditions exist, further price discovery is warranted.[54]

5. Opening With a Trade

If there are Valid Width Quotes or orders that lock or cross each other, the system will try to open with a trade. Proposed Rule 701(h) provides that the Exchange will open the option series with a trade of Exchange interest only at the Opening Price, if any of the following conditions occur: (1) The Potential Opening Price (described below) is at or within the best of the highest bid and the lowest offer among Valid Width Quotes (''Pre-Market BBO'') [55] and the ABBO; (2) the Potential Opening Price is at or within the non-zero bid ABBO if the Pre-Market BBO is crossed; or (3) where there is no ABBO, the Potential Opening Price is at or within the Pre-Market BBO which is also a Quality Opening Market.

To undertake the above described process, the Exchange will calculate the Potential Opening Price by taking into consideration all Valid Width Quotes and orders (including Opening Sweeps and displayed and non-displayed portions of Reserve Orders), except All-or-None Orders that cannot be satisfied, and identify the price at which the maximum number of contracts can trade (''maximum quantity criterion'').[56]

Under proposed Rule 701(g)(1), when two or more Potential Opening Prices would satisfy the maximum quantity criterion and leave no contracts unexecuted, the system would take the highest and lowest of those prices and takes the mid-point. If such mid-point cannot be expressed as a permitted minimum price variation, the mid-point will be rounded to the minimum price variation that is closest to the closing price for the affected series from the immediately prior trading session. If there is no closing price from the immediately prior trading session, the system will round up to the minimum price variation to determine the Opening Price.[57] Further, if any value used for the mid-point calculation would cross either the Pre-Market BBO, or the ABBO, then, for the purposes of calculating the mid-point, the Exchange will use the better of the Pre-Market BBO or ABBO as a boundary price and will open the option series for trading with an execution at the resulting Potential Opening Price.[58] The

[40] *See* proposed Rule 701(c)(2). Proposed Rule 701(c)(2) stipulates that this time period will be no less than 100 milliseconds and no more than 5 seconds. The Exchange represents that it will set the timer initially at 100 milliseconds and will issue a notice to provide the initial setting and will thereafter issue a notice if it were to change the timing. *See* Notice, *supra* note 3, at 28115 n.20. If the Exchange were to select a time not between 100 milliseconds and 5 seconds, it will be required to file a rule proposal with the Commission. *See id.*

[41] *See* proposed Rule 701(c)(5).

[42] *See id.*

[43] *See* Notice, *supra* note 3, at 28116.

[44] *See* proposed Rule 701(c)(3).

[45] *See id.*

[46] *See* proposed Rule 701(c)(4).

[47] *See* proposed Rule 701(d).

[48] *See id.*

[49] *See* Notice, *supra* note 3, at 28121.

[50] The Exchange proposes to define the term ''Zero Bid Market'' as where the best bid for an options series is zero. *See* proposed Rule 701(a)(9).

[51] *See* proposed Rule 701(e).

[52] *See* proposed Rule 701(a)(7).

[53] *See id.*

[54] *See* Notice, *supra* note 3, at 28123.

[55] *See* proposed Rule 701(a)(6). The Exchange states that the Pre-Market BBO would not include orders. *See* Notice, *supra* note 3, at 28114.

[56] *See* proposed Rule 701(g).

[57] *See* proposed Rule 701(g)(1).

[58] If the Exchange has not yet opened and the above conditions are not met, an Opening Quote

Exchange states that the purpose of these boundaries is to help ensure that the Potential Opening Price is reasonable and does not trade through other markets.[59]

If two or more Potential Opening Prices for the affected series would satisfy the maximum quantity criterion and leave contracts unexecuted, the Opening Price will be either the lowest executable bid or highest executable offer of the largest sized side.[60] This is designed to base the Potential Opening Price on the maximum quantity of contracts that are executable.[61] Furthermore, the Potential Opening Price calculation will be bounded by the better away market price that cannot be satisfied with the Exchange routable interest.[62] According to the Exchange, this would ensure that the Exchange would not open with a trade that would trade through another market.[63]

6. Price Discovery Mechanism

If the Exchange has not opened with a BBO or trade pursuant to proposed Rule 701(e) or (h), the Exchange will conduct a PDM pursuant to proposed Rule 701(j) to determine the Opening Price. According to the Exchange, the purpose of the PDM is to satisfy the maximum number of contracts possible by applying wider price boundaries and seeking additional liquidity.[64]

Before conducting a PDM, however, the Exchange will calculate the OQR under proposed Rule 701(i). The OQR, which is used during PDM, is an additional boundary designed to limit the Opening Price to a reasonable price and reduce the potential for erroneous trades during the Opening Process.[65]

To determine the minimum value for the OQR, an amount, as defined in a table to be determined by the Exchange, will be subtracted from the highest quote bid among Valid Width Quotes on the Exchange and on the away market(s), if any, except as provided in proposed Rule 701(i)(3) and (4).[66] To determine the maximum value for the OQR, an amount, as defined in a table to be determined by the Exchange, will be added to the lowest quote offer among Valid Width Quotes on the Exchange and on the away market(s), if any, except as provided in proposed Rule 701(i)(3) and (4).[67] If one or more away markets are collectively disseminating a BBO that is not crossed, however, and there are Valid Width Quotes on the Exchange that are executable against each other or that are executable against the ABBO, then the minimum value of the OQR will be the highest away bid and the maximum value will be the lowest away offer.[68] Additionally, if there are Valid Width Quotes on the Exchange that are executable against each other, and there is no away market disseminating a BBO in the affected option series, the minimum value of the OQR will be the lowest quote bid among Valid Width Quotes on the Exchange and the maximum value will be the highest quote offer among Valid Width Quotes on the Exchange.[69]

The Exchange will use the OQR to help calculate the Opening Price. For example, if there is more than one Potential Opening Price possible where no contracts would be left unexecuted, any price used for the mid-point calculation, pursuant to proposed Rule 701(g)(1), that is outside of the OQR will be restricted to the OQR on that side of the market.[70] Other instances that implicate the OQR are described below.

During PDM, the Exchange will take into consideration the away market prices in calculating the Potential Opening Price. For example, if there is more than one Potential Opening Price possible where no contracts would be left unexecuted and the price used for the mid-point calculation is an away market price, pursuant to proposed Rule 701(g)(3), the system will use the away market price as the Potential Opening Price.[71] Moreover, proposed Rule 701(i)(7) provides that if the Exchange determines that non-routable interest can execute the maximum number of contracts against Exchange interest, after routable interest has been determined by the system to satisfy the away market, then the Potential Opening Price will be the price at which such maximum number of contracts can execute—excluding the interests to be routed to an away market.[72]

After the OQR is calculated, the system will broadcast an Imbalance Message for the affected series[73] to attract additional liquidity and begin an ''Imbalance Timer,'' not to exceed three seconds.[74] The Imbalance Timer will be for the same number of seconds for all options traded on the Exchange, and each Imbalance Message will be subject to an Imbalance Timer.[75] The Exchange may have up to four Imbalance Messages which each run its own Imbalance Timer pursuant to the PDM process.[76]

Proposed Rule 701(j)(2), states that any new interest received by the system will update the Potential Opening Price. If during or at the end of the Imbalance Timer, the Opening Price is at or within the OQR, the Imbalance Timer will end and the system will open with a trade at the Opening Price if the executions consist of Exchange interest only without trading through the ABBO and without trading through the limit price(s) of interest within the OQR, which is unable to be fully executed at the Opening Price. If no new interest comes in during the Imbalance Timer and the Potential Opening Price is at or within the OQR and does not trade through the ABBO, the Exchange will open with a trade at the end of the Imbalance Timer at the Potential Opening Price.

If the option series has not opened pursuant to proposed Rule 701(j)(2) described above, the system will concurrently: (i) Send a second Imbalance Message with a Potential Opening Price that is bounded by the OQR (and would not trade through the limit price(s) of interest within the OQR which is unable to be fully executed at the Opening Price) and includes away market volume in the size of the imbalance to participants; and (ii) initiate a Route Timer, not to exceed one second.[77] As proposed, the Route Timer will operate as a pause before an order is routed to an away market. The Exchange states that the Route Timer is intended to give participants an opportunity to respond to an Imbalance Message before any opening interest is routed to away markets and thereby

Range (as described below) will be calculated pursuant to proposed Rule 701(i), and thereafter, the Price Discovery Mechanism described in proposed Rule 701(j) below will commence. *See* proposed Rule 701(h)(3)(i)(B)(II).

[59] *See* Notice, *supra* note 3, at 28117.

[60] *See* proposed Rule 701(g)(2).

[61] *See* Notice, *supra* note 3, at 28117.

[62] *See* proposed Rule 701(g)(3).

[63] *See* Notice, *supra* note 3, at 28118.

[64] *See* Notice, *supra* note 3, at 28118.

[65] *See* Notice, *supra* note 3, at 28117.

[66] *See* proposed Rule 701(i)(1).

[67] *See* proposed Rule 701(i)(2).

[68] *See* proposed Rule 701(i)(3). Proposed Rule 701(i)(3) further notes that the Opening Process will stop and an options series will not open if the ABBO becomes crossed pursuant to proposed Rule 701(c)(5).

[69] *See* proposed Rule 701(i)(4).

[70] *See* proposed Rule 701(i)(5).

[71] *See* proposed Rule 701(i)(6).

[72] The system will route Public Customer interest in price/time priority to satisfy the away market. *See* proposed Rule 701(i)(7).

[73] Imbalance Message includes the symbol, side of the imbalance (unmatched contracts), size of matched contracts, size of the imbalance, and Potential Opening Price bounded by the Pre-Market BBO.

[74] *See* proposed Rule 701(j)(1). The Exchange represents that it will issue a notice to provide the initial setting of the Imbalance Timer and would thereafter issue a notice if it were to change the timing. *See* Notice, *supra* note 3, at 28118 n.33.

[75] *See* proposed Rule 701(j)(1).

[76] *See* Notice, *supra* note 3, at 28118.

[77] *See* proposed Rule 701(j)(3).

maximize trading on the Exchange.[78] If during the Route Timer, interest is received by the system which would allow the Opening Price to be within the OQR without trading through away markets and without trading through the limit price(s) of interest within the OQR which is unable to be fully executed at the Opening Price, the system will open with trades at the Opening Price, and the Route Timer will simultaneously end. The system will monitor quotes received during the Route Timer and make ongoing changes to the OQR and Potential Opening Price to reflect them.

Proposed Rule 701(j)(3)(iii) provides that, if no trade occurs pursuant to proposed MRX Rule 701(j)(3)(ii), when the Route Timer expires, if the Potential Opening Price is within the OQR (and would not trade through the limit price(s) of interest within the OQR that is unable to be fully executed at the Opening Price), the system will determine if the total number of contracts displayed at better prices than the Exchange's Potential Opening Price on away markets (''better priced away contracts'') would satisfy the number of marketable contracts available on the Exchange. The Exchange will then open the option series by routing and/or trading on the Exchange, pursuant to proposed Rule 701(j)(3)(iii) paragraphs (A) through (C).

Proposed Rule 701(j)(3)(iii)(A) provides that, if the total number of better priced away contracts would satisfy the number of marketable contracts available on the Exchange on either the buy or sell side, the system will route all marketable contracts on the Exchange to such better priced away markets as an Intermarket Sweep Order designated as Immediate-or-Cancel order(s) and determine an opening BBO that reflects the interest remaining on the Exchange. The system will price any contracts routed to away markets at the Exchange's Opening Price. The Exchange states that routing away at the Exchange's Opening Price is intended to achieve the best possible price available at the time the order is received by the away market.[79]

Proposed Rule 701(j)(3)(iii)(B) provides that, if the total number of better priced away contracts would not satisfy the number of marketable contracts on the Exchange, the system will determine how many contracts it has available at the Opening Price. If the total number of better priced away contracts plus the number of contracts available at the Exchange's Opening Price would satisfy the number of marketable contracts on the Exchange on either the buy or sell side, the system will contemporaneously route, based on price/time priority of routable interest, a number of contracts that will satisfy such away market interest, and trade available contracts on the Exchange at the Opening Price. The system will price any contracts routed to away markets at the better of the Opening Price or the order's limit price pursuant to proposed Rule 701(j)(3)(iii)(B). The Exchange states that this proposed rule is designed to maximize execution of interest on the Exchange or away markets.[80]

Proposed Rule 701(j)(3)(iii)(C) provides that, if the total number of better priced away contracts plus the number of contracts available at the Opening Price plus the contracts available at away markets at the Exchange's Opening Price would satisfy the number of marketable contracts on the Exchange, either the buy or sell side, the system will contemporaneously route, based on price/time priority, a number of contracts that will satisfy such away market interest (pricing any contracts routed to away markets at the better of the Opening Price or the order's limit price), trade available contracts on the Exchange at the Opening Price, and route a number of contracts that will satisfy interest at other markets at prices equal to the Opening Price. The Exchange states that routing at the better of the Opening Price or the order's limit price is intended to achieve the best possible price available at the time the order is received by the away market and that routing at the order's limit price ensures that the order's limit price is not violated.[81]

Proposed Rule 701(j)(4) provides that the system may send up to two additional Imbalance Messages [82] (which may occur while the Route Timer is operating) bounded by the OQR and reflecting away market interest in the volume. After the Route Timer has expired, the processes in proposed Rule 701(j)(3) will repeat (except no new Route Timer will be initiated).

7. Forced Opening

Proposed Rule 701(j)(5) describes the process that occurs if the steps described above have not resulted in an opening of the options series. After all additional Imbalance Messages have been broadcasted pursuant to proposed Rule 701(j)(4), the system will open the series by executing as many contracts as possible by: (i) Routing to away markets at prices better than the Opening Price for their disseminated size; (ii) trading available contracts on the Exchange at the Opening Price bounded by the OQR (without trading through the limit price(s) of interest within the OQR which is unable to be fully executed at the Opening Price); and (iii) routing contracts to away markets at prices equal to the Opening Price at their disseminated size. In forced opening, the system will price any contracts routed to away markets at the better of the Opening Price or the order's limit price. Any unexecuted contracts from the imbalance not traded or routed will be cancelled back to the entering participant if they remain unexecuted and priced through the Opening Price. Otherwise such orders will remain in the order book.

Proposed Rule 701(j)(6) provides that, to the extent possible, the system will execute orders at the Opening Price that have contingencies (such as without limitation, All-or-None, and Reserve Orders) and non-routable orders such as ''Do-Not-Route'' or ''DNR'' Orders.[83] The system will only route non-contingency Public Customer orders, except that the full volume of Public Customer Reserve Orders may route.

Proposed Rule 701(j)(6)(i) provides that the system will cancel: (i) Any portion of a Do-Not-Route Order that would otherwise have to be routed to the exchange(s) disseminating the ABBO for an opening to occur or (ii) any order that is priced through the Opening Price. All other interest will remain in the system and be eligible for trading after opening. The Exchange states that it cancels these orders since it lacks enough liquidity to satisfy these orders on the opening.[84] In addition, the Exchange believes that participants would prefer to have these orders returned to them for further assessment rather than have them entered into the order book at a price which is more aggressive than the price at which the Exchange opened.[85]

8. Other Provisions

Proposed Rule 701(k) provides that during the opening of the option series, where there is a possible execution, the system will give priority first to Market Orders [86] then to resting Limit Orders [87] and quotes. Additionally, the allocation

[78] *See* Notice, *supra* note 3, at 28118.

[79] *See* Notice, *supra* note 3, at 28119.

[80] *See id.*

[81] *See id.*

[82] The Exchange notes that the first two Imbalance Messages always occur if there is interest which will route to an away market. *See* Notice, *supra* note 3, at 28119 n.38.

[83] *See* MRX Rule 715(m).

[84] *See* Notice, *supra* note 3, at 28120.

[85] *See id.*

[86] *See* MRX Rule 715(a).

[87] *See* MRX Rule 715(b).

provisions of MRX Rule 713 and the Supplementary Material to that rule apply with respect to other orders and quotes with the same price. Finally, proposed Rule 701(l) provides that upon the opening of the option series, regardless of an execution, the system will disseminate the price and size of the Exchange's best bid and offer.

9. Implementation

The Exchange states that it intends to begin implementation of the proposed rule change in the third quarter of 2017.[88] The Exchange represents that migration of the Exchange system to Nasdaq INET technology will be on a symbol by symbol basis and that the Exchange will issue an alert to Members to provide notification of the symbols that will migrate and the relevant dates.[89]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[90] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[91] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange proposes to delete in its entirety the current opening process and replace it with an opening rotation similar to the process in place on its affiliated exchanges, Phlx, ISE Gemini, and ISE. In making this change, the Exchange delineates, unlike in the current, more opaque rule, detailed steps of the opening process. By providing more clearly each sequence of the opening process, the Commission notes that the proposed rule helps market participants understand how the new opening rotation will operate. To that extent, the new opening process may promote transparency, reduce the potential for investor confusion, and assist market participants in deciding whether to participate in MRX's opening rotation. Further, if they do participate in the new opening process, the proposed rule may help provide market participants with the confidence and certainty as to how their orders or quotes will be processed.

Further, the Commission believes that the proposed rule change is designed to promote just and equitable principles of trade by seeking to ensure that option series open in a fair and orderly manner. For example, the Commission notes that the proposed rule change is designed to mitigate the effects of the underlying security's volatility as the overlying option series undergoes the opening rotation. Specifically, the proposed rule provides for a range of no less than 100 milliseconds and no more than 5 seconds in order to ensure that the Exchange has the ability to adjust the period for which the underlying must be open on the primary market before the opening process commences. Moreover, the Commission notes that the proposed rule provides an orderly process for handling eligible interests during the opening rotation, while seeking to avoid opening executions at suboptimal prices. For instance, the new process ensures that the Exchange will not open with the Exchange's BBO if there is a Zero Bid Market, no ABBO, and no Quality Opening Market. Likewise, the Exchange will not open an option series with a trade unless one following conditions is met: (1) The Potential Opening Price is at or within the Pre-Market BBO and the ABBO; (2) the Potential Opening Price is at or within the non-zero bid ABBO if the Pre-Market BBO is crossed; or (3) where there is no ABBO, the Potential Opening Price is at or within the Pre-Market BBO which is also a Quality Opening Market. Finally, while the new opening process attempts to maximize the number of contracts executed on the Exchange during such rotation, including by seeking additional liquidity, if necessary, the Commission notes that the new opening process, unlike the current process, takes into consideration away market interests and ensures that better away prices are not traded through. For these reasons, the Commission believes that the proposed rule change, as modified by Amendment No. 2, is consistent with the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[92] that the proposed rule change (SR–MRX–2017–01), as modified by Amendment No. 2, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[93]

Eduardo A. Aleman,

Assistant Secretary.

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[88] *See* Notice, *supra* note 3, at 28113.

[89] *See id.* For a more detailed description of the proposed rule change, *see* Notice, *supra* note 3.

[90] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[91] 15 U.S.C. 78f(b)(5).

[92] 15 U.S.C. 78s(b)(2).

[93] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81198; File No. S7–24–89]

Joint Industry Plan; Notice of Filing and Immediate Effectiveness of the Thirty-Ninth Amendment to the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis

July 25, 2017.

Pursuant to Section 11A of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 608 thereunder,[2] notice is hereby given that on June 30, 2017, the Participants [3] in the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis (''NASDAQ/UTP Plan'' or ''Plan'') filed with the Securities and Exchange Commission (''Commission'') a proposal to amend the NASDAQ/UTP Plan.[4]

[1] 15 U.S.C. 78k–1.

[2] 17 CFR 242.608.

[3] The Participants are: Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., Chicago Board Options Exchange, Inc., Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange LLC, Investors' Exchange LLC, NASDAQ BX, Inc., NASDAQ PHLX, Inc., NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE Arca, Inc., NYSE MKT LLC, and NYSE National, Inc. (collectively, the ''Participants'').

[4] The Plan governs the collection, processing, and dissemination on a consolidated basis of quotation information and transaction reports in Eligible Securities for each of its Participants. This consolidated information informs investors of the current quotation and recent trade prices of Nasdaq securities. It enables investors to ascertain from one data source the current prices in all the markets trading Nasdaq securities. The Plan serves as the

Continued

These amendments represent Amendment 39 to the NASDAQ/UTP Plan (''Amendments''). The Amendments propose to effectuate changes that certain Participants have made to their names and addresses, as set forth in Section I(A) of the NASDAQ/UTP Plan and to update the listing of Participant identifying codes set forth in Section VIII(C) of the Plan. Pursuant to Rule 608(b)(3)(ii) under Regulation NMS,[5] the Participants designate the Amendments as concerned solely with the administration of the Plans and as ''Ministerial Amendments'' under Section XVI of the Nasdaq/UTP Plan. As a result, the Amendments were effective upon filing and were submitted by the Chairman of the Plan's Operating Committee. The Commission is publishing this notice to solicit comments from interested persons on the proposed Amendments.

I. Rule 608(a)

A. Purpose of the Amendments

The Amendments effectuate changes that certain Participants have made to their names and addresses, as set forth in Section I(A) of the NASDAQ/UTP Plan and to update the listing of Participant identifying codes set forth in Section VIII(C) of the Plan.

B. Governing or Constituent Documents

Not applicable.

C. Implementation of the Amendments

Because the Amendments constitute ''Ministerial Amendments'' under Section XVI of the Nasdaq/UTP Plan, the Chairman of the Plan's Operating Committee may submit the Amendments to the Commission on behalf of the Participants in the Plan. Because the Participants have designated the Amendments as concerned solely with the administration of the NASDAQ/UTP Plan, the Amendments become effective upon filing with the Commission.

D. Development and Implementation Phases

Not applicable.

E. Analysis of Impact on Competition

The Participants assert that the Amendments do not impose any burden on competition because they merely effectuate a change in the names and addresses of certain Participants. For the same reasons, the Participants do not believe that the Amendments introduce terms that are unreasonably discriminatory for purposes of Section 11A(c)(1)(D) of the Exchange Act.

F. Written Understanding or Agreements Relating to Interpretation of, or Participation in, Plan

Not applicable.

G. Approval by Sponsors in Accordance With Plan

See Item I.C. above.

H. Description of Operation of Facility Contemplated by the Proposed Amendments

Not applicable.

I. Terms and Conditions of Access

Not applicable.

J. Method of Determination and Imposition, and Amount of, Fees and Charges

Not applicable.

K. Method and Frequency of Processor Evaluation

Not applicable.

L. Dispute Resolution

Not applicable.

II. Rule 601(a)

A. Equity Securities for Which Transaction Reports Shall Be Required by the Plan

Not applicable.

B. Reporting Requirements

Not applicable.

C. Manner of Collecting, Processing, Sequencing, Making Available and Disseminating Last Sale Information

Not applicable.

D. Manner of Consolidation

Not applicable.

E. Standards and Methods Ensuring Promptness, Accuracy and Completeness of Transaction Reports

Not applicable

F. Rules and Procedures Addressed to Fraudulent or Manipulative Dissemination

Not applicable.

G. Terms of Access to Transaction Reports

Not applicable.

H. Identification of Marketplace of Execution

Not applicable.

III. Solicitation of Comments

The Commission seeks general comments on the Amendments. Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed Amendments are 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 S7–24–89 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 S7–24–89. 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 Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all written statements with respect to the proposed Amendments that are filed with the Commission, and all written communications relating to the proposed Amendments 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 Web site viewing and printing at the principal office of the Plans. 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 S7–24–89 and should be submitted on or before August 21, 2017.

By the Commission.

Brent J. Fields,

Secretary.

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required transaction reporting plan for its Participants, which is a prerequisite for their trading Eligible Securities. *See* Securities Exchange Act Release No. 55647 (April 19, 2007), 72 FR 20891 (April 26, 2007).

[5] 17 CFR 242.608(b)(3)(ii).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81206; File No. SR–BatsBZX–2017–44]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use on Bats BZX Exchange, Inc.

July 25, 2017.

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 July 12, 2017, Bats BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members [3] and non-Members of the Exchange pursuant to BZX Rules 15.1(a) and (c).

The text of the proposed rule change is available at the Exchange's Web site at *www.bats.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 amend its fee schedule to modify the tier-based incremental credits for Members that are Lead Market Makers (''LMMs'') for their orders that provide displayed liquidity in the securities described under footnote 14.[4]

On April 17, 2014, the Exchange filed a proposal to adopt rules to create an LMM Program (the ''Program'') on an immediately effective basis.[5] The Program is designed to strengthen market quality for Exchange-listed Exchange Traded Products (''ETPs'') [6] by offering enhanced pricing to Market Makers [7] registered with the Exchange [8] that are also registered as an LMM in an LMM Security [9] and meet certain minimum quoting standards (''Minimum Performance Standards'').[10] In October 2015, the Exchange filed a proposed rule change with the Commission to adopt LMM credit tiers under part (B) of footnote 14 on an immediately effective basis.[11]

As described above, the Exchange offers tier-based incremental credits to Members that are LMMs for their orders that provide displayed liquidity pursuant to part (B) of footnote 14 of the fee schedule. Specifically, Members that are a Qualified LMM [12] in at least 25 LMM Securities receive an additional rebate per share (''LMM Credit'') for orders that provide displayed liquidity in Tape B securities traded on the Exchange, including non-Exchange-listed securities, except that such LMM Credits are not applied to the rebates provided to LMMs pursuant to part (A) of footnote 14 of the fee schedule (the ''LMM Rebate''). Currently, the LMM Credits and volume thresholds associated with Tape B securities are as follows: (i) An LMM Credit of $0.0001 per share where an LMM is a Qualified LMM in at least 25 ETPs; (ii) an LMM Credit of $0.0002 per share where an LMM is a Qualified LMM in at least 50 ETPs; (iii) an LMM Credit of $0.0003 per share where an LMM is a Qualified LMM in at least 75 ETPs; and (iv) an LMM Credit of $0.0004 per share where an LMM is a Qualified LMM in at least 125 ETPs.

The Exchange proposes to increase these LMM Credits for Tape B securities and to create new LMM Credits for Tape A and Tape C securities. For Tape B securities, the Exchange is proposing to increase the LMM Credits as follows: (i) From an LMM Credit of $0.0001 to $0.0002 per share where an LMM is a Qualified LMM in at least 25 ETPs; (ii) from an LMM Credit of $0.0002 to $0.0004 per share where an LMM is a Qualified LMM in at least 50 ETPs; (iii) from an LMM Credit of $0.0003 to $0.0006 per share where an LMM is a Qualified LMM in at least 75 ETPs; and (iv) from an LMM Credit of $0.0004 to $0.0008 per share where an LMM is a Qualified LMM in at least 125 ETPs.

For Tape A and Tape C securities, the Exchange is proposing to create new LMM Credit Tiers such that a Member would receive: (i) An LMM Credit of $0.0001 per share where an LMM is a Qualified LMM in at least 25 ETPs; (ii) an LMM Credit of $0.0002 per share where an LMM is a Qualified LMM in at least 50 ETPs; (iii) an LMM Credit of $0.0003 per share where an LMM is a Qualified LMM in at least 75 ETPs; and (iv) an LMM Credit of $0.0004 per share where an LMM is a Qualified LMM in at least 125 ETPs.

Finally, the Exchange proposes to implement a cap of $100,000 per Member on a monthly basis for additional rebates as part of the LMM Credit Tiers under part B of footnote 14.

Implementation Date

The Exchange proposes to implement these amendments to its fee schedule on September 1, 2017.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[13] in general, and furthers the objectives of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 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).

[4] *See* the Exchange's fee schedule *available at https://www.bats.com/us/equities/membership/fee_schedule/bzx/.*

[5] *See* Securities Exchange Act Release No. 72020 (April 25, 2014), 79 FR 24807 (May 1, 2014) (SR–BATS–2014–015).

[6] As defined in Exchange Rule 11.8(e)(1)(A), ETP means any security listed pursuant to Exchange Rule 14.11.

[7] As defined in Exchange Rule 1.5(l), Market Maker means a Member that acts as a Market Maker pursuant to Chapter XI.

[8] *See* Exchange Rule 11.5.

[9] As defined in Exchange Rule 11.8(e)(1)(C), LMM Security means an ETP that has an LMM.

[10] As defined in Exchange Rule 11.8(e)(1)(D), Minimum Performance Standards means a set of standards applicable to an LMM that may be determined from time to time by the Exchange.

[11] *See* Securities Exchange Act Release No. 76147 (October 14, 2015), 80 FR 63621 (October 20, 2015) (SR–BATS–2015–89).

[12] An LMM is a ''Qualified LMM'' in a security where it provides pricing for orders that add displayed liquidity in an LMM Security that meets the Minimum Performance Standards during the applicable billing month. *See* Exchange Rule 11.8(e).

[13] 15 U.S.C. 78f.

Section 6(b)(4),[14] 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 and it does not unfairly discriminate between customers, issuers, brokers or dealers. The proposed rule change reflects a competitive pricing structure designed to incent market participants to direct their order flow to the Exchange. The Exchange believes that the proposed rebates are equitable and non-discriminatory in that they would apply uniformly to all Members.

The proposed changes are intended to encourage Members to promote price discovery and market quality across all Exchange-listed securities for the benefit of all market participants. The Exchange believes that increasing the LMM Credits for Tape B securities and offering LMM Credits in Tape A and Tape C securities provides greater incentives to Members to become LMMs in Exchange-listed ETPs, to satisfy the Minimum Performance Standards in ETPs each month, and to add liquidity in securities on the Exchange, and is therefore reasonable because the Exchange believes doing so would encourage more LMMs to register to quote and trade in as many Exchange-listed ETPs as possible. While the Exchange already offers LMM Credits in Tape B securities, increasing such rebates will further incentivize Members to become LMMs in Exchange-listed ETPs and provide additional liquidity in other ETPs generally. In particular, enhanced rebates based on the number of securities for which a Member is registered as an LMM, would provide an incentive for such Members not only to register as an LMM in more liquid securities, but also to register to quote in lower volume ETPs, which are traditionally less profitable for Market Makers than more liquid ETPs. Moreover, the Exchange believes that the proposed change will incentivize LMMs to register as an LMM in more ETPs, including less liquid ETPs and, thus, add more liquidity in securities to the benefit of all market participants. The Exchange also believes that the proposed changes are equitable and not unfairly discriminatory because they remain consistent with the market quality and competitiveness benefits associated with the fee program and because the magnitude of the additional rebate is not unreasonably high in comparison to the requirements associated with receiving such LMM Credit and the rebate paid with respect to other displayed liquidity-providing orders.

The Exchange further believes that it is an equitable allocation of reasonable fees to offer different LMM Credit rebates between Tape B securities as compared to Tape A and Tape C securities. As described above, LMM Credits are designed to incentivize increased participation in the Exchange's LMM Program, but the Exchange believes that they will also simultaneously incentivize higher trading volumes and enhanced market quality by LMMs in all securities for which the LMM Credits apply. While the Exchange believes that offering LMM Credits on each of Tape A, Tape B, and Tape C securities will enhance market quality on all securities traded on the Exchange, by offering higher LMM Credits for Tape B securities, the Exchange will further incentivize increased liquidity provision in Exchange-listed securities and for ETPs generally, which further supports the purpose of the LMM Credits.

Finally, the Exchange believes that it is an equitable allocation of reasonable dues, fees and other charges among its Members and is not unfairly discriminatory to implement a monthly cap of $100,000 per Member for additional rebates as part of the LMM Credit Tiers under part B of footnote 14. Such a cap will help ensure that it will remain financially viable for the Exchange to continue to offer the LMM Credit Tiers. Further, the Exchange believes that the proposed cap is high enough as to not meaningfully reduce the incentives for Members to become an LMM in Bats-listed securities or significantly mitigate any of the market quality benefits to Bats-listed securities or other securities traded on the Exchange that were described above.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Similarly, the Exchange does not believe that the proposed change to the Exchange's pricing structure burden competition, but instead, that they enhance competition as they are intended to increase the competitiveness of the Exchange by modifying pricing incentives in order to attract order flow and incentivize participants to increase their participation on the Exchange.

The Exchange does not believe that the proposed increase in rebates will burden competition, but instead, enhances competition, as these changes are intended to increase LMM participation in securities, to incentivize Members to register as LMMs in Exchange-listed ETPs, and to encourage Members to meet the Minimum Performance Standards in such ETPs. As such, the proposal is a competitive proposal that is intended to add additional liquidity to the Exchange, which will, in turn, benefit the Exchange and all Exchange participants. Moreover, the Exchange does not believe that the proposed amendments would burden intramarket competition as they would be available to all Members uniformly.

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[15] and paragraph (f) of Rule 19b–4 thereunder.[16] 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–BatsBZX–2017–44 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.

[14] 15 U.S.C. 78f(b)(4).

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19–4(f).

All submissions should refer to File No. SR–BatsBZX–2017–44. 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 No. SR–BatsBZX–2017–44 and should be submitted on or before August 21, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–15996 Filed 7–28–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32742; File No. 812–14740]

Capital Southwest Corporation

July 25, 2017.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application for an order under section 23(c)(3) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 23(c) of the Act.

SUMMARY OF THE APPLICATION: Capital Southwest Corporation (''Company'') requests an order to amend a prior order[1] that permits the Company to issue Restricted Stock[2] to the Company's Participants[3] under the terms of its 2010 Restricted Stock Award Plan, as amended on January 25, 2017 (the ''Amended Plan''). The Company seeks to amend the Prior Order to permit it to engage in certain transactions in connection with the Amended Plan and the Company's 2009 Stock Incentive Plan, as amended on May 23, 2017 (the ''Amended 2009 Plan'') that may constitute purchases by the Company of its own securities within the meaning of section 23(c) of the Act.

APPLICANT: Capital Southwest Corporation.

FILING DATES: The application was filed on January 30, 2017, and amended on May 23, 2017, June 19, 2017, and July 19, 2007.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on August 21, 2017 and should be accompanied by proof of service on applicant, in the form of an affidavit, or for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicant: Bowen S. Deihl, Chief Executive Officer and President, Capital Southwest Corporation, 5400 Lyndon B Johnson Freeway, Suite 1300, Dallas, Texas 75240.

FOR FURTHER INFORMATION CONTACT: Asen Parachkevov, Senior Counsel, or Robert Shapiro, Branch Chief, at (202) 551–6821, (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for the applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicant's Representations

1. The Company is an internally managed, non-diversified, closed-end investment company that has elected to be regulated as a business development company (''BDC'') under the Act. The Amended Plan authorizes the Company, among other things, to grant to Participants, in accordance with the terms and conditions of the Prior Order, Restricted Stock. Further, under the terms of the Amended 2009 Plan, the Company is authorized, among other things to grant to Participants options to acquire shares of the Company's common stock (''Common Stock''). The Company seeks to amend the Prior Order to permit it to withhold shares of the Company's Common Stock or purchase shares of Common Stock from the Participants to satisfy tax withholding obligations related to the vesting of Restricted Stock granted pursuant to the Amended Plan or the exercise of options to purchase shares of Common Stock granted pursuant to the Amended 2009 Plan. In addition, the Company seeks to permit employees to pay the exercise price of options to purchase shares of Common Stock granted pursuant to the Amended 2009 Plan with shares of Common Stock already held by them or pursuant to a net share settlement feature.[4] The Company will continue to comply with all of the terms and conditions of the Prior Order.

2. On the date that the Restricted Stock vests (assuming no election has been made under section 83(b) of the Internal Revenue Code of 1986, as amended), the shares are released to the Participant and are available for sale or transfer (subject to the Company's share retention guidelines).[5] The Company

[17] 17 CFR 200.30–3(a)(12).

[1] Investment Company Act Release Nos. 29450 (September 29, 2010) (notice) and 29491 (October 26, 2010) (order) (the ''Prior Order'').

[2] As defined in the Prior Order.

[3] As defined in the Prior Order.

[4] Net share settlement allows the Company to deliver directly to the optionee only the number of shares underlying the portion of the option exercised less such number of shares as is equal to (X) the aggregate exercise price for the portion of the option being exercised divided by (Y) the Fair Market Value (as defined below) on the date of exercise. The Company states that the Compensation Committee of the Board has determined to use the closing sales price of the Common Stock on the NASDAQ Global Select Market (or any other such exchange on which the Common Stock may be traded in the future) on the date of the applicable transaction or other event as the fair market value (''Fair Market Value'') with respect to the Common Stock for all purposes under the Amended 2009 Plan.

[5] During the restriction period (*i.e.,* prior to the lapse of the forfeiture restrictions), the Restricted Stock may not be sold, transferred, pledged,

Continued

states the value of the Restricted Stock will generally be taxable to the recipient as ordinary income in the years in which the restrictions on the shares lapse. Such value will be the fair market value of the shares on the dates the restrictions lapse. The Company states that its obligations to make cash payments pursuant to a Restricted Stock award or deliver the shares is subject to the Participant's satisfaction of all applicable federal, state and local income and employment tax withholding obligations.

3. As discussed more fully in the application, upon the exercise of an option, the amount by which the fair market value of the shares of the Company's Common Stock received, determined as of the date of exercise, exceeds the exercise price will be treated as ordinary income to the recipient of the option in the year of exercise. The Company states that in accordance with applicable regulations of the IRS, the Company requires the optionee to pay to it an amount sufficient to satisfy taxes required to be withheld in respect of such compensation income at the time of the exercise of the option.

4. The Amended Plan and the Amended 2009 Plan were approved by the Company's board of directors (''Board''), including the required majority of the Company's directors with the meaning of section 57(o) of the Act. The Company states that the Compensation Committee of the Board, in its discretion, may permit a Participant to irrevocably elect to have the Company withhold Common Shares, or to deliver to the Company Common Shares that the Participant already owns, having a value equal to the amount required to be withheld to satisfy the Participant's tax withholding obligations related to the vesting of Restricted Stock under the Amended Plan, or the exercise of options to acquire Common Stock granted pursuant to the Amended 2009 Plan. The Company states that the Amended 2009 Plan further provides the Compensation Committee of the Board with discretion to permit the Company's employees to pay the exercise price of options to purchase shares of Common Stock with shares of Common Stock already held by them or pursuant to net share settlement.

Applicant's Legal Analysis

1. Section 23(c) of the Act, which is made applicable to BDCs by section 63 of the Act, generally prohibits a BDC from purchasing any securities of which it is the issuer except in the open market, pursuant to tender offers or under such other circumstances as the Commission may permit to ensure that the purchase is made on a basis that does not unfairly discriminate against any holders of the class or classes of securities to be purchased. The Company states that the withholding or purchase of shares of Common Stock in payment of applicable withholding tax obligations or of Common Stock in payment for the exercise price of a stock option might be deemed to be purchases by the Company of its own securities within the meaning of section 23(c) and therefore prohibited by the Act.

2. Section 23(c)(3) provides that the Commission may issue an order that would permit a BDC to purchase its shares in circumstances in which the purchase is made in a manner or on a basis that does not unfairly discriminate against any holders of the class or classes of securities to be purchased. The Company states that it believes that the requested relief meets the standards of section 23(c)(3).

3. The Company states that these purchases will be made on a basis which does not unfairly discriminate against the stockholders of the Company because all purchases of Common Stock will be at the closing sales price of the Common Stock on the NASDAQ Global Select Market (or any primary exchange on which its shares of Common Stock may be traded in the future) on the relevant date (*i.e.,* the public market price on the date of vesting of the Restricted Shares and the date of grant of options). The Company further states that no transactions will be conducted pursuant to the requested order on days where there are no reported market transactions involving the Common Stock. The Company submits that because all transactions would take place at the public market price for the Company's Common Stock, the transactions would not be significantly different than could be achieved by any shareholder on the Nasdaq Global Select Market.

4. The Company submits that the proposed purchases do not raise concerns about preferential treatment of the Company's insiders because the Amended Plan and the Amended 2009 Plan are bona fide compensation plans of the type that is common among corporations generally. Further, the Company argues that the vesting schedule is determined at the time of the initial grant of the Restricted Stock and the option exercise price is determined at the time of the initial grant of the options. The Company represents that all purchases may be made only as permitted by the Amended Plan and the Amended 2009 Plan, which were approved by the Board prior to the application for relief. The Company argues that granting the requested relief would be consistent with policies underlying the provisions of the Act permitting the use of equity compensationas well as prior exemptive relief granted by the Commission for relief under section 23(c) of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–16013 Filed 7–28–17; 8:45 am]

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hypothecated, margined, or otherwise encumbered by a Participant.

SMALL BUSINESS ADMINISTRATION

C3 Capital Partners III, L.P.; License No. 07/07–0118; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that C3 Capital Partners III, L.P., 1511 Baltimore, Suite 500, Kansas City, KS 64108, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration (''SBA'') Rules and Regulations (13 CFR 107.730). C3 Capital Partners III, L.P., proposes to provide debt financing issued by Green Compass Environmental Solutions, LLC, 2775 N. Ventura Road, Suite 209, Oxnard, CA 93036.

The financing is brought within the purview of § 107.730(a)(1) of the Regulations because C3 Capital Partners II, L.P. an Associate of C3 Capital Partners III, L.P., owns more than ten percent of Green Compass Environmental Solutions, LLC; therefore Green Compass Environmental Solutions, LLC is considered an Associate of C3 Capital Partners II, L.P., as defined in Sec. 105.50 of the regulations. In addition, C3 Capital Partners III, L.P. and C3 Capital Partners II, L.P. are Associates as defined under 13 CFR 107.50.

Notice is hereby given that any interested person may submit written comments on this transaction within fifteen days of the date of this publication to the Associate Administrator, Office of Investment and

Innovation, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416.

Dated: July 19, 2017.

A. Joseph Shepard,

Associate Administrator for Office of Investment and Innovation.

[FR Doc. 2017–16008 Filed 7–28–17; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

National Regulatory Fairness Hearing Region III Regulatory Fairness Board

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Notice of open Hearing of the Regional Small Business Regulatory Fairness Board.

SUMMARY: The SBA Office of the National Ombudsman is issuing this notice to announce the location, date, and time of the National Regulatory Fairness Hearing. This hearing is open to the public.

DATES: The hearing will be held on Monday, August 28, 2017, from 1:30 p.m. to 4:30 p.m. (EDT).

ADDRESSES: The meeting will be held at Patriots Plaza One, 395 E. Street SW., in the Hearing Room, Washington, DC 20201. Persons attending the hearing must enter the building with a valid photo identification.

FOR FURTHER INFORMATION CONTACT: The hearing is open to the public; however, advance notice of attendance is requested. Anyone wishing to attend and/or make a presentation to the Region III Regulatory Fairness Board must contact Ms. Elahe Zahirieh, Case Management Specialist, by August 15, 2017 in writing, by fax, or email at *ombudsman-events@sba.gov* in order to be placed on the agenda. For further information, please contact Ms. Zahirieh, Office of the National Ombudsman, 409 3rd Street SW., Suite 5116, Washington, DC 20416 by phone (202) 205–2417 and fax (202) 481–5719. Additionally, if you need accommodations because of a disability, translation services, or require additional information, please contact Ms. Zahirieh.

SUPPLEMENTARY INFORMATION: Pursuant to the Small Business Regulatory Enforcement Fairness Act (Pub. L. 104–121), Sec. 222, SBA announces the hearing for Small Business Owners, Business Organizations, Trade Associations, Chambers of Commerce and related organizations serving small business concerns to report experiences regarding unfair or excessive Federal regulatory enforcement issues affecting small businesses.

For more information on the Office of the National Ombudsman, see our Web site at *www.sba.gov/ombudsman.*

Dated: July 21, 2017.

Richard W. Kingan,

SBA Committee Management Officer (Acting).

[FR Doc. 2017–16003 Filed 7–28–17; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

Military Reservist Economic Injury Disaster Loans Interest Rate for Fourth Quarter FY 2017

The Small Business Administration publishes an interest rate for Military Reservist Economic Injury Disaster Loans (13 CFR 123.512) on a quarterly basis. The rate will be 3.305 for loans approved on or after July 14, 2017.

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2017–15988 Filed 7–28–17; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

Annual Meeting of the Regional Small Business Regulatory Fairness Boards Office of the National Ombudsman

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Notice of open meeting of the Regional Small Business Regulatory Fairness Boards.

SUMMARY: The SBA, Office of the National Ombudsman is issuing this notice to announce the location, date, time and agenda for the annual board meeting of the ten Regional Small Business Regulatory Fairness Boards. The meeting is open to the public.

DATES: The meeting will be held on: Tuesday, August 29, 2017, from 8:30 a.m. to 5:00 p.m. EDT and Wednesday, August 30, 2017, from 8:30 a.m. to 12:00 p.m. EDT.

ADDRESSES: The meeting will be held at Patriots Plaza One, 395 E. Street SW., Hearing Room, lobby level, Washington, DC 20201. **A valid photo identification is required to enter the building.

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public; however advance notice of attendance is requested. Anyone wishing to attend and/or make a presentation to the Regional Regulatory Fairness Boards must contact Elahe Zahirieh, Case Management Specialist, by August 21, 2017, in writing at the Office of the National Ombudsman, 409 3rd Street SW., Suite 5116, Washington, DC 20416, by phone (202) 205–2417, by fax (202) 481–5719 or email *ombudsman@sba.gov.* Additionally, if you need accommodations because of a disability, translation services, or require additional information, please contact Elahe Zahirieh as well.

SUPPLEMENTARY INFORMATION: Pursuant to the Small Business Regulatory Enforcement Fairness Act (Pub. L. 104–121), Sec. 222, SBA announces the meeting of the Regional Small Business Regulatory Fairness Boards (Regional Regulatory Fairness Boards). The Regional Regulatory Fairness Boards are tasked to advise the National Ombudsman on matters of concern to small businesses relating to enforcement activities of Federal agencies and to report on substantiated instances of excessive Federal enforcement actions against small business concerns, including any findings or recommendations of the Regional Regulatory Fairness Board regarding agency enforcement practice or policy.

The purpose of the meeting is to discuss the following topics related to the Regional Regulatory Fairness Boards:

—Introduction of the Regional Regulatory Fairness Board members and the staff of the Office of the National Ombudsman

—Panel Discussion with Federal Agency Representatives

—Facilitated discussion of ongoing small business regulatory issues

—FY2016 Outcomes and comments regarding the Annual Report to Congress

—Office of Advocacy regulatory review

—SBA update and future outreach planning

For more information on the Office of the National Ombudsman, please visit our Web site at *www.sba.gov/ombudsman.*

Dated: July 21, 2017.

Richard W. Kingan,

Acting SBA Committee Management Officer.

[FR Doc. 2017–16004 Filed 7–28–17; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Office of the Assistant Secretary for Research and Technology (OST–R) Notice of Request for Clearance of a New Information Collection: Annual Tank Car Facility Survey

AGENCY: Bureau of Transportation Statistics (BTS) Office of the Assistant Secretary for Research and Technology (OST–R), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, this notice announces the intention of the BTS to request the Office of Management and Budget's (OMB's) approval for an information collection from tank car facilities to obtain an estimate of tank cars projected to be modified or built to the new safer Department of Transportation (DOT) standards. A summary report of survey findings will be submitted to Congress as well as published by BTS on the BTS Web page.

DATES: Comments must be submitted on or before August 30, 2017.

FOR FURTHER INFORMATION CONTACT: Clara Reschovsky, (202) 366–2857, Tank Car Facility Survey Project Manager, BTS, OST–R, Department of Transportation, 1200 New Jersey Ave. SE., Room E34–409, Washington, DC 20590. Office hours are from 7:30 a.m. to 5:00 p.m., E.T., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Annual Tank Car Facility Survey.

Type of Request: Approval for a new information collection.

Affected Public: There are approximately 140 tank car facilities with the capacity to manufacture or retrofit tank cars capable of carrying Class 3 flammable liquids nationwide.

Abstract: Section 7308(c) of the Fixing America's Surface Transportation Act (Pub. L. 114–94; the ''FAST Act'') directs the Secretary of Transportation to conduct a survey of tank car facilities to obtain an estimate of tank cars projected to be modified or built to the new safer Department of Transportation (DOT) Specification 117 or 117R. Over time, this data collection will inform Congress as well as the Department of Transportation as to industry's progress in upgrading the nation's fleet of rail cars to be safer in the event of an incident involving tank cars carrying Class 3 Flammable liquids. BTS intends to collect information from tank car retrofitting and manufacturing facilities on the planned and projected number of tank cars to be retrofitted or manufactured beginning the next calendar year and annually thereafter until 2029. Any facility identified with the capacity to modify or build new tank cars to the 117 or 117R specification, as described in Section 7308(c) of the FAST Act will be included in the survey identified in this notice and is requested to submit the results to the Bureau of Transportation Statistics (BTS) no later than 60 days upon request. This will be a voluntary data collection. Individual responses to the survey will be kept confidential and a summary report of aggregate findings will be provided to:

(1) The Committee on Commerce, Science, and Transportation of the Senate; and

(2) The Committee on Transportation and Infrastructure of the House of Representatives. In addition, this summary report will also be published to the BTS Web page.

Data Confidentiality Provisions: The Annual Tank Car Facility Survey may collect confidential business information. The confidentiality of these data will be protected under Title V of the E-Government Act, the Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA). In accordance with this legislation, individual responses will not be disclosed in any direct or indirect manner and only aggregated statistical information will be made available through reports.

Frequency: This survey will be updated every year until 2029.

Estimated Average Burden per Response: The burden per respondent is estimated to be an average of 30 minutes. This includes the time required to gather records as well as respond to the survey.

Estimated Total Annual Burden: Across the nation there are approximately 400 tank car facilities that are currently registered or certified to build or modify tank cars. However, the majority of these do not have the capacity to modify or build to the 117 or 117R Specifications. It is estimated that, at most, 140 tank car shops possess the required capacity to build or modify to these new safer requirements. The total annual burden is estimated to be 70 hours (that is 30 minutes per respondent for 140 respondents equals 4,200 minutes).

Response to Comments: A 60-day notice requesting public comment was issued in the **Federal Register** on March 22, 2017 (Volume 82, Number 54; pages14799–14800). No comments were received.

Public Comments Invited: Interested parties are invited to send comments regarding any aspect of this information collection, including, but not limited to: (1) The necessity and utility of the information collection for the proper performance of the functions of the DOT; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, clarity and content of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: BTS Desk Officer.

Issued in Washington, DC, on this 25th day of July, 2017.

Patricia Hu,

Director, Bureau of Transportation Statistics, Office of the Assistant Secretary for Research and Technology.

[FR Doc. 2017–16040 Filed 7–28–17; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms W–8BEN, W–8BEN–E, W–8ECI, W–8EXP, and W–8IMY

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), 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 information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Form W–8BEN, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Individual), Form W–8BEN–E, Certificate of Status of Beneficial Owner for United States Tax Withholding and Reporting (Entities), Form W–8ECI, Certificate of Foreign Person's Claim That Income Is Effectively Connected With the Conduct of a Trade or Business in the United States, Form W–8EXP, Certificate of Foreign Government or Other Foreign Organization for United States Tax Withholding and Reporting, Form W–8IMY, Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for

United States Tax Withholding and Reporting, and the EW–8 MOU Program.

DATES: Written comments should be received on or before September 29, 2017 to be assured of consideration.

ADDRESSES: Direct all written comments to L. Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224. Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224 or through the Internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Form W–8BEN, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Individual), W–8BEN–E, Certificate of Status of Beneficial Owner for United States Tax Withholding and Reporting (Entities), Form W–8ECI, Certificate of Foreign Person's Claim That Income Is Effectively Connected With the Conduct of a Trade or Business in the United States, Form W–8EXP, Certificate of Foreign Government or Other Foreign Organization for United States Tax Withholding and Reporting, Form W–8IMY, Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for United States Tax Withholding and Reporting.

OMB Number: 1545–1621.

Form Number: W–8BEN, W–8BEN–E, W–8ECI, W–8EXP, and W–8IMY.

Abstract: Form W–8BEN is used for certain types of income to establish that the person is a foreign person, is the beneficial owner of the income for which Form W–8BEN is being provided and, if applicable, to claim a reduced rate of, or exemption from, withholding as a resident of a foreign country with which the United States has an income tax treaty.

Form W–8ECI is used to establish that the person is a foreign person and the beneficial owner of the income for which Form W–8ECI is being provided, and to claim that the income is effectively connected with the conduct of a trade or business within the United States. Form W–8EXP is used by a foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, or foreign private foundation. The form is used by such persons to establish foreign status, to claim that the person is the beneficial owner of the income for which Form W–8EXP is given and, if applicable, to claim a reduced rate of, or exemption from, withholding. Form W–8IMY is provided to a withholding agent or payer by a foreign intermediary, foreign partnership, and certain U.S. branches to make representations regarding the status of beneficial owners or to transmit appropriate documentation to the withholding agent. Reg. § 1.1441–1(e)(4)(iv) provides that a withholding agent may establish a system for a beneficial owner to electronically furnish a Form W–8 or an acceptable substitute Form W–8. Withholding agents with systems that electronically collect Forms W–8 may voluntarily choose to participate in the IRS EW–8 MOU Program. The EW–8 MOU Program is a collaborative process between the withholding agents and IRS.

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: Individuals, business or other for-profit organizations, and not-for-profit institutions.

	Number respondents	Time per respondent (hrs.)	Total annual burden hours
Form W–8BEN	2,900,000	7.18	20,822,000
Form W–8BEN–E	100,000	25.23	2,523,000
Form W–8ECI	180,000	9.13	1,643,400
Form W–8EXP	240	20.05	4,812
Form W–8IMY	400	25.23	10,092
Total	3,180,641	.....	25,003,304

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: July 19, 2017.

L. Brimmer,

Senior Tax Analyst.

[FR Doc. 2017–16010 Filed 7–28–17; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1099–A

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, 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. The IRS is soliciting comments concerning Form 1099–A, Acquisition or Abandonment of Secured Property.

DATES: Written comments should be received on or before September 29, 2017 to be assured of consideration.

ADDRESSES: Direct all written comments to L. Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224. Requests for additional information or copies of the forms and instructions should be directed to Sara Covington, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Sara.L.Covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Acquisition or Abandonment of Secured Property. OMB Number: 1545–0877.

Form Number: 1099–A.

Abstract: Form 1099–A is used by persons who lend money in connection with a trade or business, and who acquire an interest in the property that is security for the loan or who have reason to know that the property has been abandoned, to report the acquisition or abandonment.

Current Actions: There are no changes being made to the form approved under this collection. However, changes to the estimated number of filers (616,300 to 563,000), will result in a total burden decrease of 8528 (98608 minus 90808).

Type of Review: Revision of a current OMB approval.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Responses: 563,000.

Estimated Time per Response: 9 min.

Estimated Total Annual Burden Hours: 90,808.

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: July 24, 2017.

L. Brimmer,

Senior Tax Analyst.

[FR Doc. 2017–16009 Filed 7–28–17; 8:45 am]

BILLING CODE P

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 Internal Revenue Service, 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 continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning extensions of time to elect method for determining allowable loss.

DATES: Written comments should be received on or before September 29, 2017 to be assured of consideration.

ADDRESSES: Direct all written comments to L. Brimmer, Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW., Washington, DC 20224. Requests for additional information or copies of the regulations should be directed to Kerry Dennis, Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW., Washington DC 20224, or through the internet, at *Kerry.Dennis@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Extensions of Time to Elect Method for Determining Allowable Loss.

OMB Number: 1545–1774.

Regulation Project Number: T.D. 9187.

Abstract: Regulations under sections 337(d) and 1502 of the Internal Revenue Code (Code) disallow certain losses recognized on sales of subsidiary stock by members of a consolidated group. These regulations apply to corporations filing consolidated returns, both during and after the period of affiliation, and also affect purchasers of the stock of members of a consolidated group. The information with respect to § 1.337(d)–2(c)(1) and (3) is necessary to ensure that loss is not disallowed under § 1.337(d)–2(a) and basis is not reduced under § 1.337(d)–2(b) to the extent the taxpayer establishes that the loss or basis is not attributable to the recognition of built-in gain on the disposition of an asset. The information with respect to § 1.1502–32(b)(4)(vii)(C) is necessary to allow the taxpayer to amend an election that would benefit the taxpayer, *i.e.,* to amend its waiver under § 1.1502–32(b)(4), so that it may use its acquired subsidiary's losses.

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.

Estimated Number of Respondents: 3,850.

Estimated Time Per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 7,700.

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: July 20, 2017.

L. Brimmer,

Senior Tax Analyst.

[FR Doc. 2017–16011 Filed 7–28–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee Charter Renewals

AGENCY: Department of Veterans Affairs.

ACTION: Notice of Advisory Committee Charter Renewals.

In accordance with the provisions of the Federal Advisory Committee ACT (FACA) and after consultation with the General Services Administration, the Secretary of Veterans Affairs has determined that the following Federal advisory committee is vital to the mission of the Department of Veterans Affairs (VA) and renewing its charter would be in the public interest. Consequently, the charter for the following Federal advisory committee is renewed for a two-year period, beginning on the dates listed below:

Committee name	Committee description	Charter renewed on
National Research Advisory Council	Provides advice to the Secretary on research and development sponsored and/or conducted by the Veterans Health Administration, to include policies and programs of the Office, Research and Development.	May 24, 2017.

The Secretary has also renewed the charter for the following statutorily authorized Federal advisory committee for a two-year period, beginning on the date listed below:

Committee name	Committee description	Charter renewed on
Special Medical Advisory Group	Provides advice to the Secretary and the Under Secretary for Health on matters relating to the care and treatment of Veterans and other matters pertinent to the operations of the Veterans Health Administration, such as research, education, training of health manpower, and VA/DOD contingency planning.	June 12, 2017.

For further information contact Jeffrey Moragne, Committee Management Office, Department of Veterans Affairs, Advisory Committee Management Office (00AC), 810 Vermont Avenue NW., Washington, DC 20420; telephone (202) 266–4660; or email at *Jeffrey.Moragne@va.gov.* To view a copy of a VA Federal advisory committee charter, visit *http://www.va.gov/advisory.*

Date: July 26, 2017.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2017–16066 Filed 7–28–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Notice of Establishment of the Creating Options for Veterans' Expedited Recovery Commission (COVER Commission)

The Department of Veterans Affairs (VA) hereby gives notice, under the Federal Advisory Committee Act of the establishment of the Creating Options for Veterans' Expedited Recovery Commission (''COVER Commission''), authorized by section 931 of the Comprehensive Addiction and Recover Act of 2016 (CARA).

The COVER Commission will examine the evidence-based therapy treatment model used by the Secretary of Veterans Affairs for treating mental health conditions of veterans and the potential benefits of incorporating complementary and integrative health treatments available in non-Department facilities.

The COVER Commission members will be comprised of 10 voting members who are appointed by the President and Congressional leadership for the life of the COVER Commission in accordance with section 931(c) of CARA.

Any member of the public seeking additional information should contact Alfred Ozanian, Assistant Deputy Director, Mental Health Operations (10NC5), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC or email at *Alfred.Ozanian2@va.gov* or phone at 202–461–5936.

Dated: July 25, 2017.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2017–15998 Filed 7–28–17; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

Vol. 82 Monday,
No. 145 July 31, 2017

Part II

Federal Deposit Insurance Corporation

12 CFR Part 371
Recordkeeping Requirements for Qualified Financial Contracts; Rule

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 371

RIN 3064–AE54

Recordkeeping Requirements for Qualified Financial Contracts

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: The FDIC is amending its regulations regarding Recordkeeping Requirements for Qualified Financial Contracts (''Part 371''), which require insured depository institutions (''IDIs'') in a troubled condition to keep records relating to qualified financial contracts (''QFCs'') to which they are party. The final rule augments the scope of QFC records required to be maintained by an IDI that is subject to the FDIC's recordkeeping requirements and that has total consolidated assets equal to or greater than $50 billion or is a consolidated affiliate of a member of a corporate group one or more members of which are subject to the QFC recordkeeping requirements set forth in the regulations adopted by the Department of the Treasury (a ''full scope entity''); for all other IDIs subject to the FDIC's QFC recordkeeping requirements, adds and deletes a limited number of data requirements and makes certain formatting changes with respect to the QFC recordkeeping requirements; requires full scope entities to keep QFC records of certain of their subsidiaries; provides an exemption process; and includes certain other changes, including changes that provide additional time for certain IDIs in a troubled condition to comply with the regulations.

DATES: Effective October 1, 2017.

FOR FURTHER INFORMATION CONTACT: Legal Division: Phillip E. Sloan, Counsel, (703) 562–6137; Joanne W. Rose, Counsel, (917) 320–2854. Division of Resolutions and Receiverships: Marc Steckel, Deputy Director, (571) 858–8224; George C. Alexander, Assistant Director, (571) 858–8182.

SUPPLEMENTARY INFORMATION:

I. Policy Objectives

This final rule (the ''final rule'') enhances and updates recordkeeping requirements as to QFCs of IDIs in troubled condition in order to facilitate the orderly resolution of IDIs with QFC portfolios. The final rule revises the format of records required to be maintained in order to provide more ready access to expanded QFC portfolio data. Additionally, the final rule requires that more comprehensive information be maintained to facilitate the FDIC's understanding of complex QFC portfolios of IDIs in receivership. The changes to both the formatting and the quantity of information will enable the FDIC, as receiver, to make better informed and efficient decisions as to whether to transfer some or all of a failed IDI's QFCs during the one-business-day stay period for the transfer of QFCs. This will help the FDIC achieve a least costly resolution.

Part 371 was adopted in 2008 pursuant to 12 U.S.C. 1821(e)(8)(H) (the ''FDIA Recordkeeping Provision'') to enable the FDIC to have prompt access to detailed information about the QFC portfolios of IDIs for which the FDIC is appointed receiver.[1] In the eight and one-half years since Part 371 was adopted, the FDIC has obtained QFC information pursuant to Part 371 from many IDIs in troubled condition, ranging in size from large, complex institutions to small community banks. While the information obtained has proved useful to the FDIC as receiver, the necessity for more comprehensive information from institutions with complex QFC portfolios in formats that reflect recent developments in digital technology is evident.

In July 2010, Congress enacted the Dodd-Frank Wall Street Reform and Consumer Protection Act[2] (''Dodd-Frank Act''), section 210(c)(8)(H) (''Section 210(c)(8)(H)'') of which requires the adoption of regulations that require financial companies to maintain QFC records that are determined to be necessary or appropriate to assist the FDIC as receiver for a covered financial company in being able to exercise its rights and fulfill its obligations under section 210(c)(8), (9), or (10) of the Dodd-Frank Act. These sections of the Dodd-Frank Act are in most respects identical to 12 U.S.C. 1821(e)(8)–(10) of the Federal Deposit Insurance Act (''FDIA'')[3] and cover, among other subjects, the stay applicable to QFCs and the FDIC's rights to transfer QFCs during the one-business-day stay period.

On October 31, 2016, in implementation of Section 210(c)(8)(H), the Department of the Treasury published regulations (''Part 148'') that require large U.S. financial companies and their U.S. subsidiaries (other than IDIs, certain IDI subsidiaries and insurance companies) to maintain QFC recordkeeping systems.[4] The scope of records required to be maintained by companies subject to Part 148 is more comprehensive than that required under Part 371 for IDIs in troubled condition. Part 148 was prepared in consultation with the FDIC. Its recordkeeping requirements reflect the insights obtained by the FDIC in administering Part 371. Part 148, as adopted, reflects comments received on the Part 148 notice of proposed rulemaking, and the input from those comments are, where appropriate, reflected in this final rule. Part 148 requires companies that are subject to that rule to maintain comprehensive QFC records in formats that will enable the FDIC to expeditiously analyze the information in the event it is appointed as receiver for a covered financial company pursuant to Title II of the Dodd-Frank Act. The comprehensive data fields reflect the data that the FDIC has identified as important for it to make its determinations as to whether to transfer QFCs of a failed institution.

The final rule harmonizes the recordkeeping requirements under Part 371 for large IDIs and IDIs that are consolidated affiliates of financial companies subject to Part 148 with the recordkeeping requirements of Part 148. The harmonization with Part 148 for all of these IDIs supports the policy objective of enabling the FDIC to make judicious QFC transfer decisions. In the case of an IDI that is a member of a corporate group subject to Part 148, it will enable the FDIC, as receiver of the

[1] 12 CFR part 371.

[2] 12 U.S.C. 5301 *et seq.*

[3] 12 U.S.C. 1811 *et seq.*

[4] 31 CFR part 148.

IDI, to rapidly obtain a complete picture of the QFC positions of the entire group by combining the records maintained under the two regulations. Such harmonization will also reduce costs to IDIs that become subject to Part 371 and that are members of a corporate group subject to Part 148 by enabling such IDIs to utilize the information technology infrastructure established by their corporate group for purposes of complying with Part 148.

II. Background

A. Overview

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 [5] includes the FDIA Recordkeeping Provision that authorizes the FDIC, in consultation with the appropriate Federal banking agencies, to prescribe regulations requiring more detailed recordkeeping by an IDI with respect to QFCs if such IDI is in a troubled condition. Pursuant to this provision, in 2008 the FDIC adopted Part 371, which requires that IDIs in a troubled condition maintain specified information relating to QFCs to which they are party in a format acceptable to the FDIC. As the FDIC noted in the adopting release for Part 371, the FDIC as receiver has very little time—the period between the day on which the FDIC is appointed receiver and 5:00 p.m. Eastern time on the following business day—to determine whether to transfer QFCs to which a failed IDI is party.[6] The release stated that ''[g]iven the FDIA Act's short time frame for such decision by the FDIC, in the case of a QFC portfolio of any significant size or complexity, it may be difficult to obtain and process the large amount of information necessary for an informed decision by the FDIC as receiver unless the information is readily available to the FDIC in a format that permits the FDIC to quickly and efficiently carry out an appropriate financial and legal analysis.'' [7] It was the FDIC's expectation, when it adopted Part 371, that the regulations would provide the FDIC with QFC information in a format that would assist the FDIC in making these determinations.

In the eight and one-half years since it was adopted, Part 371 has proved very useful to the FDIC in connection with QFCs of IDIs for which it was appointed receiver. While these institutions, in general, had limited QFC portfolios, several large IDIs with significant QFC portfolios also became in a troubled condition and were required to comply with the recordkeeping requirements of Part 371. The process of working with these IDIs to achieve compliance with Part 371, in addition to being very useful in resolution planning for these institutions, was instructive for the FDIC and caused the FDIC to identify areas where additional data in a more accessible format would provide the FDIC, as receiver, with important benefits in making determinations as to whether to transfer the institution's QFCs in a manner that would help preserve the value of the receivership and minimize losses to the Deposit Insurance Fund. The FDIC also gained experience with respect to the length of time that sometimes is necessary to complete QFC recordkeeping requirements, and identified areas where the requirements could be made clearer.

As previously noted, Part 148 requires more extensive recordkeeping than that required by Part 371 as currently in effect (''Current Part 371''). The additional data include, among other data points, information on underlying QFCs where the QFC in question is a guarantee, additional information as to whether a QFC is guaranteed, information as to positions for which a QFC serves as a hedge, certain information as to the netting sets to which the QFCs pertain, information as to cross-default provisions in QFCs, information as to location of collateral, whether the collateral is segregated by the entity holding the collateral, whether the collateral is subject to re-hypothecation, and information as to the value of QFC positions in the currency applicable to the QFCs. This additional information is expected to greatly assist the FDIC as receiver in making decisions as to the treatment of the receivership's QFCs under the Dodd-Frank Act within the same, short one-business-day stay period that applies where the FDIC is appointed as receiver [8] for an IDI under the FDIA.

B. Notice of Proposed Rulemaking

On December 28, 2016, the FDIC published a notice of proposed rulemaking (the ''NPR''), which proposed to amend and restate Part 371 in its entirety. As proposed in the NPR, the rule (as so proposed, the ''proposed rule'') required full scope entities to maintain substantially all of the data mandated by part 148. Additions to the recordkeeping requirements for other IDIs were more limited. The proposed rule would have required all IDIs to maintain records in the revised format set forth in the appendices to the proposed rule. The proposed rule also would have eliminated two data points from the recordkeeping requirements.

C. Comment Received

The FDIC received one comment letter, submitted by two industry trade associations, in response to the NPR. The letter (the ''TCH/SIFMA Letter'') was strongly supportive of the proposal to harmonize the recordkeeping requirements applicable to full scope entity IDIs under Part 371 with the recordkeeping requirements under Part 148 applicable to other entities in the same corporate group and stated that ''[s]uch harmonization is important as a matter of sound policy and as a practical matter for our members.'' [9]

The TCH/SIFMA Letter also suggested that several changes be made to the proposed rule. The final rule reflects acceptance of many of these proposed changes, as discussed in more detail below. The changes reflected in the final rule include the addition of an exemption process to Part 371; an increase in the ceiling, from 19 QFC positons to 50 QFC positions, for applicability of the *de minimis* exception to the requirement that records be kept electronically; an exclusion, from the scope of reportable subsidiaries, for subsidiaries that are organized under foreign law and for unconsolidated subsidiaries; for certain IDIs that are maintaining records in accordance with Part 371 on the effective date of the final rule and have one or more affiliates that are members of a corporate group required to comply with Part 148, an extension of the date on which the IDI is required to comply with Part 371, as revised by the final rule, until the first date on which any such affiliate is scheduled to comply with Part 148; and the addition of a consolidation criterion for determining which entities are treated as full scope entities solely because they have an affiliate that is a member of a corporate group with at least one member subject to Part 148.

1. Exemptions

In furtherance of the harmonization of Part 371 with Part 148, the TCH/SIFMA

[5] Pub. L. 109–8, 119 Stat. 23.

[6] 73 FR 78162, 78163 (December 22, 2008).

[7] *Id.*

[8] Most of the restrictions applicable to the treatment of QFCs by an FDIC receiver also apply to the FDIC in its conservatorship capacity. *See* 12 U.S.C. 1821(e)(8), (9), (10), and (11). While the treatment of QFCs by an FDIC conservator is not identical to the treatment of QFCs in a receivership, *see* 12 U.S.C. 1821(e)(8)(E) and (10)(B)(i)–(ii), for purposes of this preamble reference to the FDIC in its receivership capacity includes reference to its role as conservator under this statutory authority.

[9] Letter dated February 27, 2017 from The Clearing House Association LLC (''TCH'') and the Securities Industry and Financial Markets Association (''SIFMA''), pp. 1–2.

Letter proposed that any full or partial exemption that is granted to an affiliate of an IDI under Part 148 or that is made generally applicable under Part 148 automatically apply to the IDI if it becomes subject to Part 371, unless such applicability is expressly prohibited by the FDIC. The FDIC agrees that harmonizing Part 371 and Part 148, where prudent, is of major importance so that, in complying with Part 371, an IDI can utilize the same systems built by its affiliates in order to comply with Part 148. However, the FDIC does not believe that it is appropriate for an exemption granted by a different governmental entity under a different set of regulations to be automatically applicable to the FDIC's requirements under Part 371 absent action by the FDIC. In this connection, the FDIC notes that unlike Part 148, which applies to financial companies within its scope regardless of their financial condition, Part 371 only applies to an IDI when it is in troubled condition. Therefore, Part 371 often becomes applicable at a time when failure of the IDI is more than merely a distant theoretical possibility and when certain data that may be exempted under Part 148 due to its perceived burdensomeness for a healthy company may be quite relevant to the FDIC as receiver of an IDI.

The TCH/SIFMA Letter also suggested that the final rule include an exemption process for IDIs. This would enable the FDIC to provide exemptions that are the same or similar to those provided under Part 148 if requested by an IDI, if the FDIC deems it prudent to grant the exemption. As the letter notes, the FDIC will have reviewed exemption requests under Part 148 and thus should be able to quickly respond to exemption requests under Part 371. An exemption provision would also enable the FDIC to grant other exemptions that it deems appropriate. The FDIC has determined that an exemption process would be a useful addition and the final rule provides an exemption process.

2. IDIs With Minimal QFC Portfolios

The TCH/SIFMA Letter proposed that the final rule adopt a *de minimis* exception parallel to that contained in Part 148. Under Part 148, an entity with 50 or fewer QFC positions is relieved of all recordkeeping requirements other than the requirement to maintain the documents governing the QFCs. Under the proposed rule (as under Current Part 371), the requirement to maintain QFC records in electronic form is inapplicable to entities with less than 20 QFC positions, provided that the required QFC data is maintained in a manner that is capable of being updated on a daily basis.

As noted above, because Part 371 applies only to institutions in troubled condition, the Part 371 recordkeeping requirements are applicable when an IDI failure may be imminent and, thus, the FDIC as receiver may need to quickly make decisions as to whether to retain or transfer the IDI's QFCs. As a result, unlike Part 148, the *de minimis* exception under Current Part 371 has always required the maintenance of all data that is required to be maintained by Current Part 371, and was not designed to provide, and does not provide, a general exemption from the scope of recordkeeping. Accordingly, the final rule does not reduce the scope of records required of institutions with small QFC portfolios. However, upon consideration of the letter's suggestions, the FDIC agrees that the *de minimis* exception from electronic recordkeeping can be safely increased to 50 QFC positions and the final rule reflects this change.

3. Definition of Full Scope Entity

The TCH/SIFMA Letter noted that unlike Part 148, the proposed rule included as full scope entities IDIs with $50 billion or more in total assets, without regard to the scope of their QFC activities, and proposed that a QFC activity filter be added to the final rule. The FDIC believes that this comment does not take into account the different statutory bases for Part 148 and Part 371. The statute authorizing Part 148 expressly requires that the regulations differentiate, as appropriate, among financial companies by taking into consideration, among other factors, the ''frequency and dollar amount of qualified financial contracts.'' [10] The statute authorizing Part 371, on the other hand, authorizes recordkeeping requirements for IDIs in troubled condition, without regard to other factors.[11] This difference reflects the fact that the burden of recordkeeping under Part 148 is imposed regardless of the condition of the Part 148 subject entities and is intended to protect the financial stability of the United States which, necessarily, requires considerations that relate to interconnectedness to the U.S. financial system.

4. Recordkeeping for QFCs of Certain IDI Subsidiaries

The TCH/SIFMA Letter asserted that the proposed rule's requirement that full scope entities maintain records relating to QFCs of certain of their subsidiaries (the ''reportable subsidiaries'') exceeds the FDIC's authority. However, the letter acknowledges that Current Part 371 requires some information as to affiliates of an IDI where such affiliates are party to QFCs which are governed by a master agreement that also governs QFCs of the IDI, and argues that information collected as to reportable subsidiaries of an IDI under the final rule should be limited to this information. Alternatively, the TCH/SIFMA Letter argues that even if obtaining information as to subsidiaries is within the FDIC's authority, the scope of reportable subsidiaries should be limited to consolidated subsidiaries organized within the United States.

Contrary to the assertion in the TCH/SIFMA Letter, the FDIA Recordkeeping Provisions contains sufficient authorization for the FDIC to require an IDI to maintain records as to QFCs of its subsidiaries. The statute provides that the FDIC may prescribe regulations requiring recordkeeping by any IDI with respect to QFCs, and does not limit this authorization to QFCs of the IDI. Moreover, as noted in the letter, since its adoption Current Part 371 has required certain information as to affiliates (including subsidiaries) of IDIs.

The TCH/SIFMA Letter also asserted that (i) the benefits to the FDIC of having subsidiary information available to it as receiver of an IDI is not a proper basis for the burden imposed by requiring that an IDI in troubled condition provide QFC information as to its subsidiaries and (ii) such information would be of importance to the FDIC only if it could be appointed receiver for an IDI subsidiary. The FDIC disagrees with these assertions. As discussed in the NPR, requiring data as to QFCs of reportable subsidiaries can be of major importance to the FDIC in providing the FDIC with a more comprehensive understanding of the QFC exposure of the group. Since many QFCs include cross-default clauses that may be triggered by the appointment of the FDIC as receiver for an IDI, QFCs of subsidiaries may be terminated by counterparties unless the FDIC has the opportunity to negotiate with the subsidiary's counterparties to attempt to keep the QFCs in place. If the QFCs are important to the subsidiary, such action may be important to preserving the value of the IDI's ownership interest in the subsidiary. Further, if the FDIC establishes a bridge bank for the IDI, information as to subsidiary QFC positions will enable the receiver to evaluate overall exposure to particular counterparty groups, which may be a necessary factor in determining whether to transfer QFCs of the IDI to the bridge

[10] 12 U.S.C. 5390(c)(8)(H).

[11] 12 U.S.C. 1821(e)(8)(H).

bank, particularly if the receiver plans to transfer to the bridge bank the IDI's ownership interest in the subsidiary.

The TCH/SIFMA Letter also argued that if the final rule retains the requirement for IDIs to maintain records of reportable subsidiary QFCs, subsidiaries that are organized outside of the U.S. and subsidiaries that are not consolidated with the IDI under generally accepted accounting principles should be excluded.

The letter argued that it would be inappropriate for Part 371 to require information as to foreign subsidiaries when Part 148 excludes such companies. This argument fails to take account of the difference between the authorizing statutes for Part 148 and Part 371. The authority for recordkeeping granted under Part 148 is limited to records of companies organized under federal or state law. There is no such limit on recordkeeping under the Part 371 authorizing statute. However, because corporate groups that are subject to Part 148 will not have developed systems for Part 148 reporting of QFCs of foreign subsidiaries it is possible that imposing this requirement in Part 371 on IDI subsidiaries could result in significant costs to the IDI or the corporate group and, accordingly, the FDIC has determined to exclude such companies from the final rule. In excluding such subsidiaries from the definition of records entity, however, the FDIC is not relaxing the requirement that an IDI report QFCs between the IDI (or any reportable subsidiary of the IDI) and any of the IDI's foreign subsidiaries or branches (or between any reportable subsidiary and any foreign subsidiary or foreign branch of the reportable subsidiary).

In addition, because it is less likely that QFC positions of subsidiaries that are not consolidated with an IDI would be relevant to the determination of whether to transfer ownership interests in such subsidiaries to a bridge bank or determinations as to overall exposure to particular counterparties, the FDIC has determined to limit reportable subsidiaries to subsidiaries which are consolidated with an IDI under generally accepted accounting principles or other applicable accounting standards.

5. Time Period for Compliance With Final Rule

The TCH/SIFMA Letter states that certain IDIs may need more than the 270 day period set forth in the proposed rule in order to effect compliance with the final rule. While past experience of the FDIC indicates that large institutions should be able to comply with the rule in this period, even after taking into account the increased recordkeeping requirements included in the rule, the final rule authorizes the FDIC to grant one or more extensions of time for compliance for IDIs that request the extension in accordance with the final rule. This extension process has been successfully used by IDIs heretofore subject to Current Part 371.

The fact that, as noted in the TCH/SIFMA Letter, Part 148 provides more time for compliance is not persuasive to the FDIC, especially since IDIs that are subject to Part 371 are only those in troubled condition and, thus, are institutions from which information may be needed quickly.

6. Other Comments

The TCH/SIFMA Letter includes several other comments. The first is that the FDIC should develop a comprehensive analysis of the costs of the proposed rule as compared to the benefits to the FDIC of the information. The NPR, as well as the final rule, reflects just such an analysis. Costs determined from such analysis are reflected in the Sections titled ''*IV. Expected Effects*'' *and* ''*VI. Regulatory Process, B. Regulatory Flexibility Act*'' below. The benefits to the FDIC—which include the ability to quickly obtain information as to QFCs in order that the FDIC can make informed decisions as to whether to transfer QFCs and thus protect the Deposit Insurance Fund—are discussed throughout this Supplementary Information.

The letter also suggested that the FDIC consider, for IDIs that have been required to comply with Current Part 371, the costs of modifying existing systems to comply with the data requirements of the final rule and determine whether the systems that the IDIs have already developed are sufficient to meet the FDIC's needs. The FDIC has carefully considered this issue. In formulating the data tables for full scope entities, the FDIC replicated the Part 148 data tables and, with very limited exceptions, the final tables for full scope entities under Part 371 are identical to the Part 148 data tables. Thus, if the information technology systems necessary for affiliates of an IDI subject to Part 371 to comply with Part 148 have been constructed at the time the IDI is required to comply with the final rule, the IDI should be able to use those information technology systems in creating the recordkeeping systems necessary to comply with Part 371 and thus significantly reduce its costs of compliance with Part 371. Accordingly, the final rule has been revised to delay the compliance date for any full scope entity that has a consolidated affiliate that is a member of a corporate group with at least one member subject to Part 148 (any such full scope entity, a ''Part 148 affiliate'') until the scheduled Part 148 compliance date.[12] The rule has not been revised for full scope entities already subject to Part 371 that are not Part 148 affiliates because, if any such full scope entity exists on the effective date, the FDIC does not believe that there will be significant modification costs for it. In addition, no modification has been made for IDIs that are Part 148 affiliates but not subject to Part 371 immediately prior to the effective date of the final rule, because, unlike IDIs subject to Current Part 371, which will be required to continue to provide data under Current Part 371 until they comply with the final rule, there will be no Part 371 data (whether under Current Part 371 or otherwise) available from these IDIs until compliance with the final rule. Finally, no modification has been made for limited scope entities currently subject to Part 371 because no such entities have significant QFC portfolios.

In addition, in order to further limit costs of compliance with the final rule, the FDIC has added a consolidation criterion to the definition of Part 148 affiliate. As a result, an IDI with less than $50 billion in total consolidated assets that is an affiliate of an entity that is a member of a corporate group with one or more members subject to Part 148 will not constitute a full scope entity unless, in accordance with generally accepted accounting principles or other applicable accounting standards, the IDI consolidates, or is consolidated with or by, one of the members of the group.

The TCH/SIFMA Letter also argued that the proposed scope of QFCs to be subject to the final rule was too broad, and mentioned, as an example, short-dated cash transactions, exchange traded products, spot foreign exchange transactions and transactions with retail customers. This comment has little relation to this rulemaking, which effects limited changes to the amount and format of data required by Part 371, but does not re-define the term QFC or in any other way modify the scope of products covered by Part 371. In any event, as the FDIA defines ''qualified financial contract'' and requires that the FDIC as receiver treat all QFCs between a failed IDI and its counterparty and its

[12] No change has been made to the compliance date for IDIs whose affiliates are required to comply under § 148.1(d)(1)(i)(A), since that compliance date is at or about the same compliance date that applies under Part 371 under the general 270 day compliance period requirement.

counterparty's affiliates in the same manner,[13] it would be inappropriate to exclude any categories of QFCs from the regulation. In this regard, however, as discussed above, the final rule includes a process for IDIs to obtain exemptions from aspects of the final rule and the FDIC encourages entities that believe that the maintenance of data as to certain types of QFCs is overly burdensome in comparison to the benefits to be obtained from such data to seek targeted exemptions from the rule.

The letter also suggested that affiliates of counterparties be defined using a consolidation standard rather than the Bank Holding Company Act definition because it may be difficult for an IDI to obtain data as to non-consolidated counterparty affiliates. Because the statutory provisions governing the FDIC's duties as to QFCs of a counterparty's affiliates use the Bank Holding Company definition of affiliate,[14] the FDIC will need to be able to identify all affiliates, as so defined.[15] Accordingly, this proposal was rejected. As an alternative, the TCH/SIFMA Letter urges that the amount of information required to be maintained for counterparties be limited. The FDIC cannot agree to this proposal as it worked with the Treasury Department to limit to the maximum reasonably feasible extent the information required under Part 148 as to counterparties and their affiliates and the final rule requires the same information.

The TCH/SIFMA Letter also asked that the FDIC consider proposals included in an attachment to the letter that is a copy of the comment letter submitted by TCH and SIFMA with respect to Part 148 as initially proposed. Many of these proposals are inapplicable to Part 371 and others were reflected in the proposed rule. It is not entirely clear which of the other proposals the FDIC is requested to review.

One of these proposals is that a records entity's guarantees of QFCs of non-affiliates be excluded from the scope of the required recordkeeping. Because the FDIA includes, as QFCs, guarantees of QFCs, whether or not an affiliate is a party to the underlying QFC, the FDIC has not accepted this suggestion.

The TCH/SIFMA Letter also suggested that operational and business level details, such as trading desk identifiers, points of contact and certain other information be omitted from the required data. While certain of the information mentioned in the letter was not required by the proposed rule (and is not required by the final rule), desk identifiers and points of contact were included in the proposed rule and continue to be required by the final rule, because this data is expected to help enable the FDIC to find personnel at an IDI who are familiar with particular QFCs and obtain any needed additional information from such personnel. A point of contact is necessary during the phase when an IDI is required to establish its recordkeeping systems so that the FDIC will know whom to contact in order to ensure an IDI is proceeding promptly to establish a conforming recordkeeping system.

The TCH/SIFMA Letter also expressed concern that certain data fields may not be applicable to certain types of QFCs and recommend that the rule specifically allow a records entity to use discretion when reporting such data fields. It has been the FDIC's experience in implementing Part 371 that questions of this nature are resolved by the IDI and the FDIC during the compliance process and, accordingly, such a change to the rule is not necessary.

III. The Final Rule

A. Summary

The final rule amends and restates Part 371 in its entirety. The final rule requires full scope entities to maintain the full complement of data required by Part 148.[16] The data tables required for full scope entities are substantially identical to those required by Part 148. Full scope entities include IDIs with total consolidated assets of $50 billion or more as well as Part 148 affiliates. The additional data with respect to credit support and collateral, among other items, will provide the FDIC as receiver with important information as to the risks associated with the QFC portfolio and thus assist the FDIC in addressing more complex QFC portfolios. This is appropriate for larger institutions that are more likely to have significant and more complex QFC portfolios. It also is appropriate for Part 148 affiliates, regardless of size. Consistency of recordkeeping throughout the entire corporate group will provide additional functionality and useful information to the FDIC as receiver of an IDI in that group. Moreover, the additional burden of this scope of recordkeeping on smaller IDIs that are Part 148 affiliates should be mitigated, as the information technology infrastructure required to comply with Part 371 under the final rule is the same information technology infrastructure that the corporate group would need to construct in order to comply with Part 148.

The FDIC has decided that the $50 billion total consolidated asset threshold for full scope entities is appropriate for several reasons. Institutions of this size are more likely to have larger and more complex QFC portfolios. Also, this is the threshold used in 12 CFR part 360 to identify institutions that are required to file resolution plans [17] and, accordingly, was the subject of comments that were considered in the formulation of Part 360 as adopted. The considerations that merit additional resolution planning for these institutions also apply to the QFC recordkeeping requirements of this Part. This threshold also corresponds to the threshold that was established for determining which bank holding companies would be subject to enhanced supervision and prudential standards under Title I of the Dodd-Frank Act [18] and was also adopted by the Financial Stability Oversight Council as an initial threshold for identifying nonbank financial companies that merit further evaluation as to whether they should be designated under section 113 of the Dodd-Frank Act.[19] Part 148 also uses a $50 billion threshold.[20] All of the previously described uses of the $50 billion threshold reflect a consensus that it is a reasonable cut-off to identify institutions for heightened attention and, in the case of QFC records, for requirements that would provide quick access to more comprehensive data in the event of failure.

The final rule makes only limited additions to the data required under

[13] *See* 12 U.S.C. 1821(e)(8), (9), and (10).

[14] *See* 12 U.S.C. 1813(w).

[15] Moreover, this definition of affiliate is used under Current Part 371.

[16] One data row, relating to the status of non-reporting subsidiaries under the provisions of Part 148, has been omitted from the tables for full scope entities.

[17] 12 CFR 360.10.

[18] 12 U.S.C. 5365(a).

[19] *See* Financial Stability Oversight Council Guidance for Nonbank Financial Company Determinations, 12 CFR part 1310, app. A., III.a.

[20] $50 billion is also one of the thresholds used in the OCC guidelines establishing heightened standards for certain large IDIs and standards for recovery planning by certain large IDIs. *See* 12 CFR part 30, App. D–E. In its preamble to its 2014 guidelines establishing heightened standards for certain large IDIs, the OCC stated that ''the $50 billion asset criteria is a well understood threshold that the OCC and other Federal banking regulatory agencies have used to demarcate larger, more complex banking organizations from smaller, less complex banking organizations.'' 79 FR 54518, 54521–22 (Sept. 11, 2014) (citing 12 CFR 46.1 (stress testing); 12 CFR 252.30 (enhanced prudential standards for bank holding companies with total consolidated assets of $50 billion or more)).

Current Part 371 for IDIs other than full scope entities (''limited scope entities'') because the data from the tables with the limited additions set forth in the final rule will provide sufficient information for the FDIC as receiver to take necessary actions with respect to QFC portfolios of all but the largest IDIs and IDIs that are part of a large group, with an extensive QFC portfolio, that is subject to Part 148. It is unlikely that most limited scope entities will have QFC positions of a magnitude and complexity that would justify the added burden of being subject to the full scope of data requirements imposed by Part 148. In assessing what additions to information should be required for limited scope entities, FDIC staff was informed by its experience in administering Part 371.

Only certain portions of Current Part 371 are substantively changed by the final rule. The changes include the following: (i) The recordkeeping requirements for full scope entities are expanded; (ii) full scope entities are required to keep records on the QFC activity of certain of their subsidiaries; (iii) the required format for QFC records for limited scope entities is revised and a limited number of additional data fields are added for these IDIs; (iv) the length of time that certain IDIs have to comply with the rule is increased; (v) an exemption process has been added; (vi) changes are made to the process for obtaining extensions and to the permitted duration of extensions for certain types of IDIs; (vi) the ceiling for applicability of the *de minimis* exception to the electronic recordkeeping requirement has been increased; (vii) clarifications were made relating to records access requirements; and (viii) certain other changes relating to transition and other matters are made.

B. Section-by-Section Analysis

1. Scope, Purpose, and Compliance Dates

Section 371.1 sets forth the scope and purpose of the final rule, as well as required compliance dates. The expressed purpose of Part 371—to establish recordkeeping requirements with respect to QFCs for IDIs in a troubled condition—is the same as under Current Part 371.

Under Current Part 371, an IDI is required to comply with Part 371 after receiving written notice from the IDI's appropriate Federal banking agency or the FDIC that it is in troubled condition under Part 371. Section 371.1(a) of the final rule provides that Part 371 applies to an IDI that is a ''records entity.'' A records entity is an IDI that has received notice from its appropriate Federal banking agency or the FDIC that it is in a troubled condition *and* has also received written notification from the FDIC that it is subject to the recordkeeping requirements of Part 371. The final rule includes a requirement that an IDI receive notification from the FDIC that it is subject to Part 371 in order to ensure an orderly administration of Part 371 by the FDIC.

Section 371.1(c)(1) of the final rule requires that, within three business days of receiving notice that it is a records entity, an IDI must provide the FDIC with the contact information of the person who is responsible for the QFC recordkeeping under Part 371 and a directory of the electronic files that will be used by the IDI to maintain the information required to be kept under Part 371. These requirements are substantially similar to those set forth in Current Part 371, although the final rule clarifies that the contact person must be the person responsible for the recordkeeping system, rather than simply a knowledgeable person. The electronic file directory consists of the file path or paths of the electronic files located on the IDI's systems.

The final rule sets forth a different compliance date schedule than that set forth in Current Part 371. Under Current Part 371, an IDI is required to comply with Part 371 within 60 days of being notified that it is in troubled condition under Part 371, unless it obtains an extension of this deadline. It has been the FDIC's experience that some IDIs with significant QFC portfolios that were subject to Part 371 needed up to 270 days to establish systems that enabled them to maintain QFC records in accordance with Part 371. Because extensions under Current Part 371 are limited to 30 days, several extensions were necessary.

Under § 371.1(c)(2)(i) of the final rule all IDIs, except for an IDI that is an accelerated records entity (as defined in the next paragraph) and IDIs that are subject to Part 371 before the effective date of the final rule, are required to comply with Part 371 within 270 days of becoming a records entity. In addition, § 371.1(d)(1) of the final rule authorizes the FDIC to provide extensions of up to 120 days to records entities other than accelerated records entities. These changes will reduce or eliminate the need for repeated extensions for IDIs that are not accelerated records entities and thus reduce the burden on such IDIs.

Accelerated records entities are IDIs with a composite rating of 4 or 5 or that are determined to be experiencing a significant deterioration of capital or significant funding difficulties or liquidity stress. In view of the increased risk of near-term failure of IDIs that are accelerated records entities, accelerated records entities remain subject to a 60-day compliance period and extensions for such entities are limited to 30 days. The 270-day compliance period with extensions of up to 120 days is applicable to other records entities because those entities do not pose the same near-term failure risk as accelerated records entities. The final rule, under § 371.1(c)(2)(iii), specifies that if a records entity that was not initially an accelerated records entity becomes an accelerated records entity, the entity will be required to comply with this rule within the shorter of 60 days from the date it became an accelerated records entity or 270 days from the date it became a records entity.

Section 371.1(d)(3) of the final rule retains the requirement of Current Part 371 that written extension requests be submitted not less than 15 days prior to the deadline for compliance, accompanied by a statement of the reasons why the deadline cannot be met. In order to reflect the FDIC's past practice in considering extension requests under Part 371, the final rule expressly requires that all extension requests include a project plan for achieving compliance (including timeline) and a progress report.

2. Definitions

Section 371.2 contains definitions used in Part 371. The final rule adds new definitions that reflect changes to the substantive text and tables of Part 371.

Newly defined terms include ''records entity,'' which is added for clarity and conciseness to denote an IDI that is subject to Part 371. As previously discussed, the definition provides that in order to be a records entity, and thus subject to Part 371, an IDI must receive notice from its appropriate Federal banking agency or the FDIC that it is in a troubled condition and must also receive notice from the FDIC that it is subject to the recordkeeping requirements of Part 371. The definition of records entity includes an IDI already subject to the recordkeeping requirements of Part 371 as of the effective date of the final rule.

Current Part 371 defines ''troubled condition'' to mean any IDI that (1) has a composite rating, as determined by its appropriate Federal banking agency in its most recent report of examination, of 3 (only for IDIs with total consolidated assets of $10 billion dollars or greater), 4, or 5 under the Uniform Financial Institution Rating System, or in the case

of an insured branch of a foreign bank, an equivalent rating; (2) is subject to a proceeding initiated by the FDIC for termination or suspension of deposit insurance; (3) is subject to a cease-and-desist order or written agreement issued by the appropriate Federal banking agency, as defined in 12 U.S.C. 1813(q), that requires action to improve the financial condition of the IDI or is subject to a proceeding initiated by the appropriate Federal banking agency which contemplates the issuance of an order that requires action to improve the financial condition of the IDI, unless otherwise informed in writing by the appropriate Federal banking agency; (4) is informed in writing by the IDI's appropriate Federal banking agency that it is in troubled condition for purposes of 12 U.S.C. 1831i on the basis of the IDI's most recent report of condition or report of examination, or other information available to the IDI's appropriate Federal banking agency; or (5) is determined by the appropriate Federal banking agency or the FDIC in consultation with the appropriate Federal banking agency to be experiencing a significant deterioration of capital or significant funding difficulties or liquidity stress, notwithstanding the composite rating of the IDI by its appropriate Federal banking agency in its most recent report of examination. This definition applies only for purposes of Part 371.

The final rule makes no change to the definition of troubled condition under Current Part 371. The FDIC notes that for purposes of Part 371 the third prong of the definition, which addresses IDIs subject to a cease-and-desist order or written agreement issued by the appropriate Federal banking agency that requires action to improve the financial condition of the IDI,[21] is intended to be broadly interpreted to include consent orders, or stipulations entered into by, or imposed upon, the IDI pursuant to 12 U.S.C. 1818(b) of the FDIA. Whether any such consent order or stipulation, or any cease-and-desist order or written agreement, requires ''action to improve the financial condition'' of the IDI for purposes of Part 371 will depend on the facts and circumstances surrounding the particular order or agreement, but it is not limited to an order or agreement that specifically mentions adequacy of capital. It may also include, where appropriate, factors relating to asset quality, management, earnings, liquidity, and sensitivity to market risk, as each factor is defined in the FDIC's notice of adoption of policy statement regarding the Uniform Financial Institution Rating System.[22] For instance, under the final rule definition, in the case of management, an order or agreement that requires improvements in risk management practices and internal policies and controls addressing the operations and risks of significant activities might fall within the scope of orders or agreements that require action to improve the financial condition of the IDI within the meaning of the final rule. On the other hand, a cease-and-desist order or consent order relating to improvements with respect to Bank Secrecy Act reporting requirements may not fall within the meaning of an order to improve the financial condition of the IDI.

As discussed previously, the final rule defines an ''accelerated records entity'' as a records entity with a composite rating of 4 or 5 under the Uniform Financial Institution Rating System (or in the case of an insured branch of a foreign bank, an equivalent rating system), or that is determined to be experiencing a significant deterioration of capital or significant funding difficulties or liquidity stress, notwithstanding the composite rating of the institution by its appropriate Federal banking agency in its most recent report of examination.

The final rule requires different recordkeeping requirements for ''full scope entities'' and ''limited scope entities,'' and adds definitions of those terms for clarity and conciseness. The rule defines a full scope entity as a records entity that has total consolidated assets equal to or greater than $50 billion or that is a Part 148 affiliate. ''Part 148 affiliate'' is defined as a records entity that, under generally accepted accounting principles or other applicable accounting standards, consolidates, or is consolidated by or with (or is required to consolidate or be consolidated by or with), a member of a corporate group one or more other members of which are required to maintain QFC records pursuant to Part 148.

The final rule defines a limited scope entity as a records entity that is not a full scope entity. As discussed previously, the final rule requires full scope entities to keep more detailed QFC records than limited scope entities.

The final rule requires that full scope entities include, among other items, records for their reportable subsidiaries. A subsidiary is defined to include an entity that is consolidated (or required to be consolidated) by another entity on such entity's financial statements prepared in accordance with generally accepted accounting principles or other applicable accounting standards. A reportable subsidiary is defined to include a subsidiary of an IDI that is not a functionally regulated subsidiary as defined in 12 U.S.C. 1844(c)(5), a security-based swap dealer as defined in 15 U.S.C. 78c(a)(71), or a major security-based swap participant as defined in 15 U.S.C. 78c(a)(67). The definition of reportable subsidiary excludes subsidiaries that are not incorporated or organized under U.S. federal law or the laws of a state (as defined in the final rule). Since QFC data for reportable subsidiaries is not required to be maintained under Part 148, requiring this information in Part 371 will provide the FDIC as receiver with more complete recordkeeping for the largest entities, which are likely to have more subsidiaries and, as discussed previously, are likely to have larger and more complex QFC portfolios.

The final rule also adds a definition for ''business day'' that is consistent with the definition of this term used in 12 U.S.C. 1821(e)(10)(D) and a definition for ''control'' (used in the definition of the term ''affiliate''), which is defined consistently with the definition of this term in the FDIA.[23] In addition, the final rule defines ''total consolidated assets,'' used in the definition of troubled condition and in the definition of full scope entity, as total consolidated assets as reported on a records entity's most recent audited consolidated statement of financial condition filed with its appropriate Federal banking agency.

Minor drafting changes to the definition of ''qualified financial contract'' are included in the final rule. These changes are for clarity only and are not intended to make substantive changes in the meaning of this term.

The final rule also adds certain terms in order to clarify portions of Part 371, including terms used in the new data tables. These terms include ''parent entity,'' ''corporate group,'' ''counterparty,'' ''effective date,'' ''legal entity identifier'' (LEI) and ''state.''

3. Maintenance of Records

Section 371.3 of the final rule sets forth the requirements for maintaining QFC records. As under Current Part 371, paragraph (a) of the final rule requires that QFC records be maintained in electronic form in the format set forth in the Appendices to Part 371, unless the records entity qualifies for the exemption from electronic recordkeeping for institutions with less

[21] 12 CFR 371.2(f)(3) (2016).

[22] *See* 62 FR 752 (Jan. 6, 1997).

[23] 12 U.S.C. 1813(w)(5), which uses the definition set forth in 12 U.S.C. 1841(a)(2).

than the minimum number of QFC positions, and that all such records in electronic form be updated on a daily basis. The final rule has changed the ceiling for qualification for this *de minimis* exception from 19 QFC positions to 50.

In recognition of the value to the FDIC of consistency of recordkeeping through an entire corporate group, the final rule adds a new requirement, in § 371.3(a)(4), that records maintained by a Part 148 affiliate are compiled consistently with records compiled by its affiliates pursuant to Part 148. This requires that an IDI subject to Part 371 use the same data inputs (for example, counterparty identifier) as the inputs used for reporting pursuant to Part 148. The final rule clarifies that these updates must be based on the previous end-of-day values.

The final rule requires that a records entity be capable of providing the preceding day's end-of-day values to the FDIC no later than 7 a.m. (Eastern Time) each day. The 7 a.m. deadline is included in light of the limited stay period for transfer of QFCs by the FDIC as receiver, which ends at 5 p.m. (Eastern Time) on the business day following the date of the appointment of the receiver.[24] This deadline represents a clarification of the requirement contained in Current Part 371 that IDIs subject to Part 371 maintain the capacity to produce records at the close of processing on a daily basis.[25] The next-day 7 a.m. deadline is applicable, whether or not the day on which access is required (the next day) is a business day, to allow the FDIC to have the maximum time to make necessary decisions and take necessary actions with respect to the QFC portfolio, even where the IDI is closed on a Friday. Even though, in the case of a Friday closing, the next day is not a business day, the next day deadline should impose no additional burden on an IDI since the final rule requires that the IDI be capable of providing records on the next day in all circumstances. Finally, the final rule extends the 7 a.m. deadline if the FDIC does not request access to the records at least eight hours before the 7 a.m. deadline.

The final rule also adds a new requirement that electronic records are compiled in a manner that permits aggregation and disaggregation of such records by counterparty, and if a records entity is maintaining records in accordance with Appendix B, by records entity and reportable subsidiary. The final rule adds a requirement that a records entity maintain daily records for a period of not less than five business days in order to ensure that there are records available to the FDIC that indicate the trends in an institution's QFC holdings even before the actual previous end-of-day's records are available to the FDIC.

The final rule also changes the requirement in Current Part 371 with respect to the point of contact at the records entity to answer questions with respect to the electronic files being maintained at the records entity. Section 371.1(c) of the final rule requires that records entities provide the FDIC the name and contact information for the person responsible for recordkeeping, and § 371.3(b) requires that the FDIC is notified within three business days of any change to such information.

The final rule makes no change to the requirement in Current Part 371 that a records entity may cease maintaining records one year after it is notified that it is no longer in troubled condition. During this one-year period, the entity shall continue to be capable of providing the records to the FDIC on the same basis that is applicable prior to the time it ceased to be in a troubled condition. In addition, as under Current Part 371, if a records entity is acquired by or merges with an IDI entity that is not in troubled condition, it may cease maintaining records following the time it ceases to be a separately insured IDI.

4. Content of Records

Section 371.4 of the final rule sets forth the requirements for the content of the QFC records that are required to be maintained by records entities. As discussed previously, Section 371.4(b) requires a full scope entity to maintain QFC records in accordance with Appendix B to Part 371, which requires significantly more comprehensive records than are required under Current Part 371. In general, full scope entities are likely to have significant QFC portfolios and the expanded recordkeeping will facilitate the decisions that must be made by the FDIC with respect to these QFC portfolios. Appendix B is substantially similar to the tables included in the Part 148 regulations and, accordingly, if a records entity is an affiliate of an entity that is required to keep records under Part 148, it is likely that it will be able to use the recordkeeping infrastructure developed to comply with Part 148. Consistency of the information as to the IDI and its reportable subsidiaries as well as the other entities in the corporate group will provide the FDIC with a more comprehensive understanding of the QFC exposure of the group.

Section 371.4(a) of the final rule requires a limited scope entity to maintain less comprehensive QFC records under Appendix A, which is similar in scope to the Appendix to Current Part 371, with the changes discussed under ''*8. Appendix A*'' below. Section 371.4(a) gives a limited scope entity the option to maintain the more comprehensive QFC records required under paragraph (b). The FDIC anticipates that if a limited scope entity expects to meet the criteria of a full scope entity at some point in the future, it might wish to maintain records under Appendix B in order to avoid changing its records system.

The QFC records required to be maintained by Appendices A and B are necessary to assist the FDIC in determining, during the short one-business-day stay period applicable to QFCs, whether to transfer QFCs.

The final rule also requires records entities that are subject to § 371.4(b) to include information on QFCs to which their reportable subsidiaries are a party. This information is required to be provided by the records entity, not the reportable subsidiary. As discussed previously, a reportable subsidiary is defined to include a consolidated subsidiary of an IDI organized under federal or state law that is not a functionally regulated subsidiary as defined in 12 U.S.C. 1844(c)(5), a security-based swap dealer as defined in 15 U.S.C. 78c(a)(71), or a major security-based swap participant as defined in 15 U.S.C. 78c(a)(67). Like IDIs, reportable subsidiaries are excluded from the recordkeeping requirements of Part 148, while information as to subsidiaries that are not reportable subsidiaries would be available to the FDIC from information provided under Part 148. Without information as to QFCs of reportable subsidiaries, the FDIC, as receiver, might not have information that would allow it to assess the effect of its transfer and retention decisions for QFCs of an IDI on the entire group comprised of the IDI and its subsidiaries. While this information might also be useful from limited scope entities maintaining information in accordance with Appendix A, the FDIC does not believe that the advantage of having this information on reportable subsidiaries would outweigh the burden for these smaller IDIs which, individually or with their subsidiaries, are not expected to normally have significant QFC positions.

Section 371.4(c) of the final rule provides requirements for a records entity that changes its recordkeeping

[24] *See* 12 U.S.C. 1821(e)(10)(A).

[25] See 12 CFR 371.3.

status. It requires that a limited scope entity that is maintaining QFC records in accordance with the tables in Appendix A that subsequently becomes a full scope entity maintain QFC records in accordance with the tables in Appendix B within 270 days of becoming a full scope entity or, if it is an accelerated records entity, within 60 days. The final rule requires such an entity to continue to maintain the records under the tables in Appendix A until it maintains the QFC records specified in the tables to Appendix B. A full scope entity that subsequently becomes a limited scope entity is permitted to opt to maintain records under the tables in Appendix A. This entity would be required to continue to maintain the records specified in the tables to Appendix B until it maintains the records in accordance with Appendix A. The FDIC is not requiring a time period for compliance in such instance because the records under Appendix B are more comprehensive than the records under Appendix A.

If a limited scope entity that is not yet maintaining QFC records in accordance with Appendix A or B becomes a full scope entity, the final rule requires the records entity to maintain QFC records in accordance with Appendix B within 270 days of the date on which it became a records entity or, if it is an accelerated records entity, within 60 days. The same compliance timeframes apply to a records entity that is a full scope entity that becomes a limited scope entity before it maintains QFC records in accordance with Appendix B. These compliance periods for records entities that change their recordkeeping status reflect the importance to the FDIC of promptly obtaining QFC records from IDIs in troubled condition.

Records entities that experience a change in status, like IDIs newly subject to Part 371, are permitted to apply for extensions of time to comply under § 371.1(d).

The final rule retains the *de minimis* exception included in Current Part 371, but increases the QFC position limit. This provision allows a records entity with fewer than 51 QFC positions at the time it becomes a records entity to maintain these records in any format it chooses, including paper records, so long as the required records are capable of being updated daily, provided that the records entity does not subsequently have 51 or more QFC positions.

5. Exemptions

Section 371.5 of the final rule sets forth a process under which an IDI subject to Part 371 may request an exemption from one or more of the recordkeeping requirements of Part 371. In order to request an exemption, the IDI must submit a written request to the Executive Secretary of the FDIC referring to Part 371. The request must specify the requirements of Part 371 from which the IDI is requesting to be exempt and whether the exemption is proposed to relate solely to QFC records of the IDI or to records of one or more identified reportable subsidiaries, either alone or together with the IDI. The final rule requires that the request specify why it would be appropriate for the FDIC to grant the exemption and why granting the exemption will not impair or impede the FDIC's ability to fulfill statutory obligations under 12 U.S.C. 1821(e)(8), (9), or (10), which relate to the treatment of QFCs by the FDIC as receiver, or the FDIC's ability to obtain a comprehensive understanding of the QFC exposures of the ID and its reportable subsidiaries. The final rule also requires a requesting IDI to provide any additional information required by the FDIC.

6. Transition for Existing Records Entities

Section 371.6 of the final rule provides rules for full scope entities that are subject to Current Part 371 immediately prior to the effective date of the final rule to transition to the new recordkeeping requirements included in the final rule. Limited scope entities that are subject to Current Part 371 immediately prior to the effective date are not required to transition to the new recordkeeping requirements. If, however, any such limited scope entity ceases to be subject to the recordkeeping requirements because it ceases to be in troubled condition for one year pursuant to § 371.3(d) but subsequently again becomes subject to the recordkeeping requirements, at such subsequent time the limited scope entity will be subject to the new recordkeeping requirements.

Under the final rule, a full scope entity that, immediately prior to the effective date of the final rule, is maintaining QFC records in accordance with Current Part 371 and is not a Part 148 affiliate eligible for delayed compliance (as described in the next sentence), will be required to comply with all recordkeeping requirements of Part 371 within 270 days after the effective date or, in the case of an accelerated records entity, 60 days. A Part 148 affiliate, other than a Part 148 affiliate that has a corporate group member that is required to comply with Part 148 on the first recordkeeping compliance date under Part 148 pursuant to 31 CFR 148.1(d)(1)(i)(A), that is maintaining QFC records in accordance with Current Part 371 immediately prior to the effective date of the final rule is permitted to delay compliance until the first date on which any of its affiliates is required to comply with Part 148. However, if such Part 148 affiliate is an accelerated records entity it must comply within 60 days of the effective date. Any full scope records entity benefitting from a 270 day or longer compliance period discussed above is required to continue to maintain the records required by Current Part 371 until it maintains the records required by § 371.4(b).

Additionally, the final rule contains a provision that addresses the transition of a full scope entity that is required to keep records under the Current Part 371 but is not in compliance with Current Part 371's recordkeeping requirements immediately prior to the effective date of the amendments to Part 371. The final rule requires such a records entity to comply with the recordkeeping requirements of Part 371, as amended, within 270 days after the date that it first became a records entity or, in the case of an accelerated records entity, 60 days.

The effect of these provisions is to provide more time for the transition to the recordkeeping requirements of Part 371, as amended, for full scope entities that are keeping the records required under Current Part 371 and less time for those that are not. The FDIC believes that it is reasonable to give IDIs that are actually maintaining the information required by Current Part 371 more time to transition to the recordkeeping requirements of the amendments to Part 371 because even in the worst case scenario where the IDI is placed into receivership prior to completion of the transition, the FDIC will have some information on the QFCs of the IDI to use in making its transfer determinations. If the transition provisions of the final rule gave a full new 270 day period to an IDI already subject to Part 371 that was not in compliance with Current Part 371, there would be an increased risk that the IDI could be placed into receivership prior to providing any of the records required by Current Part 371 or the final rule.

7. Enforcement Actions

Section 371.7 of the final rule is unchanged from § 371.5 of Current Part 371. It provides that violation of Part 371 will subject a records entity to enforcement action under Section 8 of the FDIA (12 U.S.C. 1818).

8. Appendix A

Appendix A of the final rule applies to a records entity that is a limited scope entity.[26] The file structure for Appendix A requires two data tables: (1) Table A–1—Position-level data and (2) Table A–2—Counterparty Netting Set Data. It also requires two master data lookup tables: (1) Corporate Organization Master Table and (2) Counterparty Master Table. Although the scope of Appendix A is generally similar to the scope of information required under Current Part 371, the approach to the format of the data required is changed. All of the tables are expected to be data sets that allow for sorting and review using readily available tools which the FDIC expects will make them more useful to the institution as well as to the FDIC in the event it is appointed as receiver. To accommodate this change in format and to make it easier to input and to sort data, the lookup tables have been added.

Table A–1. Like Table A–1 of Current Part 371, Table A–1 requires position level information as to each QFC of a records entity. Certain changes have been made with respect to the information required on current Table A–1, however, with two data fields eliminated and a few others added in Table A–1 to the final rule.

Specifically, Table A–1 of the final rule makes a limited number of additions to the rows included in Table A–1 of Current Part 371 in order to provide ready electronic access to information that FDIC staff has found to be important in determining whether to transfer or retain QFCs of a failed IDI. These additions include Row A1.1, which requires an ''as of'' date. This information is important because a records entity often derives data from multiple systems in multiple locations and the FDIC needs to be able to expeditiously determine whether, due to differences in time zone, legal holidays or other factors, any of the data is not current. Other additions are made to allow for systematic, electronic identification of parties. Row A1.2 requires that a records entity identifier be provided and Row A1.4 requires use of a counterparty identifier. Current Part 371 requires that a records entity provide a list of counterparty identifiers, but the new format will facilitate the prompt and accurate identification of counterparties as well as the determination of whether they are affiliated entities. This is important because in an FDIA resolution, QFCs must be transferred on an all-or-none basis with respect to all QFCs entered into with counterparties of the same affiliated group. This may, but does not always, comport with straightforward netting sets, so the efficient identification of affiliated counterparties is critical to the FDIC's decisions that must be made within the short one-business-day stay period. In addition, Table A–1 requires that the identifier used for records entities as well as counterparties be an LEI, if the records entity or counterparty has one. LEIs are identifiers maintained for companies by a global organization and are increasingly used by financial institutions. In order for an LEI to be properly maintained, it must be kept current and up to date according to the standards established by the Global LEI Foundation. Accordingly, the use of LEIs in Part 371 will ensure that variations from formal names do not result in the misidentification of a records entity or counterparty and thus help ensure that the FDIC satisfies its obligation to transfer all, or none, of the QFC positions between a failed IDI and a counterparty and its affiliates.

New Rows A1.5 and A1.6, which require that data include the internal booking location identifier and the unique booking unit or desk identifier of a QFC, are intended to improve the ability of the FDIC to identify individuals at a records entity who are familiar with a particular position. This can be of major importance to the FDIC in determining, during the one business day stay period, whether to retain or transfer a QFC. This requirement replaces the requirement in Current Part 371 that the appendices specify a portfolio location identifier and provide a list of booking locations.

Some of the new rows in Table A–1 are designed to provide the FDIC with information about other positions or assets of the records entity to which a QFC relates. For example, where an interest rate swap relates to a loan made by an IDI or to a different swap of the IDI, this information would be of critical importance to the FDIC in making its determination of whether to transfer or retain that QFC. The FDIA provides that a guarantee or other credit enhancement of a QFC is itself a QFC.[27] Under Current Part 371, a guarantee or other credit enhancement was reported in the same manner as any other QFC, but experience under Current Part 371 made clear that records on guarantees and credit enhancements would be clearer and more complete with clear information with respect to the type of QFC covered by the enhancement and the QFC party whose obligations are being credit enhanced be specified. Accordingly, new rows A1.8 and A1.9 require that information.

Rows A1.19–A1.21 require additional information as to third party credit enhancements in favor of the records entity. This information is important to assessing credit risk and net exposure with respect to QFCs, which will facilitate decisions with respect to transfer of those QFCs. Rows A1.22–A1.24 require information as to positions of the records entity to which the QFC relates. For example, these rows indicate if obligations relating to a loan made by the failed IDI are being hedged by the QFC.

Other changes are intended to facilitate the ability of the FDIC to electronically identify positions and governing agreements. Rows A1.10–A1.12 require identifying information regarding the QFC master agreement or primary agreement (*e.g.,* the guarantee agreement in the case of a guarantee) and, if different, netting agreement, in lieu of the requirement in Current Part 371 that these agreements be separately listed. Row A1.13 adds a requirement that the trade date of a position is specified in order to help the FDIC differentiate between different positions with the same counterparty.

Finally, Table A–1 does not include two data fields in Table A of Current Part 371 that in practice have not generally proved to elicit useful information. These are the rows that require that the purpose of the QFC position and that documentation status be identified.

Table A–2. Like Table A–2 of Current Part 371, Table A–2 requires information as to QFC positions aggregated by counterparty and maintained at each level of netting under the relevant governing agreement. If a master agreement covers multiple types of transactions, but does not require that the different types of transactions be netted against each other the net exposures under each type of transaction will need to be separately reported. Thus, for example, where a single master agreement covers both interest rate swaps and forward exchange transactions but does not require netting between the swap positions and the repo positions, the net exposures of the interest rate swaps are required to be reported separately from the net exposures of the repurchase agreements.

While there are several non-substantive, clarifying drafting changes and additions to rows included in the existing Table A–2, the substantive additions are limited. Like Table A–1,

[26] As discussed previously, a limited scope entity may elect to report on the more comprehensive Appendix B.

[27] 12 U.S.C. 1821(e)(8)(D).

Table A–2 includes new rows that require records entity identifiers, information as to third party credit enhancements in favor of the records entity and additional information relating to the underlying contracts for QFCs that are themselves credit enhancements.

Rows A2.16–A2.17 require information as to the next margin payment date in order to help the receiver or transferee avoid inadvertent defaults and analyze the positions.

Table A–2 continues to require information as to the net current market value of all positions under a netting agreement, but also requires that the current market value of all positive positions and current market value of all negative positions be separately stated. It also changes the manner in which collateral positions are shown. These break downs of information will assist the FDIC in its analysis of the net overall position.

Corporate Organization Master Table. The final rule retains the requirement of Current Part 371 for complete information regarding the organizational structure of the records entity. However, Appendix A requires that a records entity maintain that information in the corporate organizational master table in lieu of any other form of organizational chart. Requiring this information in this format will make this information more easily accessible to the FDIC with improved functionality.

Counterparty Master Table. The FDIA requires that in making a transfer of a QFC the receiver must either (1) transfer all QFCs between a records entity and a counterparty and the counterparty's affiliates to the same transferee IDI, or (2) transfer none of such QFCs.[28] Thus, an understanding of the relationship of the counterparties is critical to the FDIC's function as receiver. Current Part 371 requires this information in the form of a list of affiliates of counterparties that are also counterparties to QFC transactions with a records entity or its affiliates. The final rule requires that a records entity maintain this information in the form of a counterparty organizational master table completed with respect to each counterparty of the records entity. The listing on each such table of the immediate and ultimate parent entity of the counterparty will enable the FDIC to efficiently and reliably identify counterparties that are affiliates of each other without requiring full organizational charts of each counterparty group.

[28] 12 U.S.C. 1821(e)(9).

9. Appendix B

Appendix B of the final rule applies to a records entity that is a full scope entity as well as to a limited scope entity that elects to use Appendix B rather than Appendix A. As discussed previously, Appendix B corresponds to the information required for records entities under Part 148. It includes all of the data discussed above that is required by Appendix A plus additional information that is important for understanding the larger and more complex QFC portfolios of the largest IDIs. The file structure for Appendix B requires four data tables: (1) Table A–1—Position-level data, (2) Table A–2—Counterparty Netting Set Data, (3) Table A–3—Legal Agreements and (4) Table A–4—Collateral Detail Data. It also requires four master data lookup tables: (1) Corporate Organization Master Table, (2) Counterparty Master Table, (3) Booking Location Master Table and (4) Safekeeping Agent Master Table.

The most significant additional data required by Appendix B, as compared to Appendix A, is provided for in Tables A–3 and A–4 of Appendix B. In general, these Tables require additional information with respect to the master agreements or other contracts governing QFCs as well as additional information regarding collateral supporting QFCs.

In addition, Tables A–1 and A–2 for these entities require that the market value and notional amount of positions be expressed in local currencies, as well as in U.S. dollars, and that information as to amount of collateral subject to re-hypothecation be provided.

Table A–3. This table requires specific information as to each governing agreement, such as an ISDA master agreement or other netting agreement or, in the case of a QFC that is a credit enhancement, the agreement governing such credit enhancement. The required information includes the agreement's governing law, whether the agreement includes a cross-default determined by reference to an entity that is not a party to the agreement and, if so, the identity of such other party, and contact information for each counterparty.

The information as to governing law is needed to evaluate whether there is any likelihood of different treatment of transfer of the QFC, access to collateral or other matters under non-U.S. law. The cross-default information is necessary so that the likelihood of the QFC terminating on account of the insolvency or payment defaults or other matters relating to a third party can be analyzed. The counterparty contact information may be important in connection with the FDIC's obligations under 12 U.S.C. 1821(e)(10) to take steps reasonably calculated to give notice of transfer of a QFC.

Table A–4. This table requires data as to the different items of collateral that support different netting sets. For each netting set, this table requires information as to the original face amount, local currency, market value, location and jurisdiction of each item of collateral provided. This table also requires an indication of whether the item of collateral is segregated from other assets of the safekeeping agent (which can be a third party or a party to the QFC), and whether re-hypothecation of the item of collateral is permitted. This data will help the FDIC evaluate the adequacy of collateral for each QFC netting set, as well as the potential for the collateral to be subject to ring-fencing by a foreign jurisdiction.

Table A–1. Table A–1 in Appendix B is very similar to Table A–1 in Appendix A. In addition to requiring that data be expressed in U.S. dollars, the table requires that certain data also be expressed in local currency in order to assist the FDIC's analysis of positions. It also requires that the fair value asset classification under GAAP, IFRs or other applicable accounting standards be set forth and that additional information be provided relating to credit enhancements that benefit a QFC counterparty of the records entity. In addition, it requires that the records entity identify itself and its reportable subsidiaries by use of the LEI of the records entity or the reportable subsidiary (as applicable).

Table A–2. Table A–2 in Appendix B is very similar to Table A–2 in Appendix A. The only added rows require information about collateral that is subject to re-hypothecation, information as to the identity of the safekeeping agent, *i.e.,* the party holding the collateral, which can be either a party to the QFC or a third party, and information as to credit enhancements that benefit a QFC counterparty of the records entity.

Booking Location Master Table. This master table requires certain additional information regarding each QFC, including internal booking location identifiers, and booking unit or desk contact information. This information will assist the FDIC in locating personnel at the IDI with knowledge of the QFC.

Safekeeping Agent Master Table. This table provides information as to points of contact for each collateral safekeeping agent. This information will assist the FDIC in locating personnel at the safekeeping agent who are familiar with

the collateral and the safekeeping arrangements.

IV. Expected Effects

The FDIC has considered the expected effects of the final rule on covered institutions, the financial sector and the U.S. economy. The final rule will likely pose some costs for covered institutions, but by expanding the QFC recordkeeping requirements for institutions in troubled condition the final rule will enable the FDIC to make better informed decisions on whether to transfer QFCs of covered institutions if they enter into receivership. The final rule also harmonizes the scope and format of Part 371's QFC recordkeeping requirements for full scope entities with the recordkeeping requirements under Part 148 and thereby permits IDIs that become subject to Part 371 and are members of corporate groups subject to Part 148 to use information technology systems developed by their Part 148 affiliates in order to comply with Part 371. Finally, by enabling the FDIC to more efficiently evaluate and understand QFC portfolios the final rule will help the FDIC as receiver minimize unintended defaults through failures to make timely payments or collateral deliveries to QFC counterparties.

During the financial crisis of 2008 and ensuing recession many banks failed, some of which were party to significant volumes of QFCs. Through its experience of working with banks in troubled condition that were establishing systems to comply with the recordkeeping requirements of Current Part 371, the FDIC concluded that institutions with larger and more complex portfolios of QFCs would be more difficult to resolve in an efficient manner unless more QFC information was readily accessible. Readily available information on collateral, guarantees, credit enhancements, etc. would be necessary to evaluate counterparty risk and maximize value to the receivership. The final rule should provide benefits by reducing the likelihood that a future failure of an insured depository institution with a large and complex portfolio of QFCs could result in unnecessary losses to the receivership.

Full Scope Entities

The final rule will likely result in large implementation costs for full scope entities. Significantly more information on QFCs is required to be maintained by the final rule relative to Current Part 371, including additional information as to collateral, guarantees and credit enhancements. The added information will enable the FDIC to more accurately assess and understand the QFC portfolios of institutions this size, which are more likely to be large and complex than the QFC portfolios of limited scope entities. As of March 31, 2017, based on Consolidated Reports of Condition and Income as of that date, there were 41 FDIC-insured institutions with consolidated assets of $50 billion or more. There are another 29 FDIC-insured institutions with consolidated assets of less than $50 billion that are members of corporate groups that are subject to Part 148, resulting in a total of 70 potential full-scope entities. In the event that one of these institutions becomes in a troubled condition and becomes subject to Part 371, as defined in the rule, the FDIC assumes that, on average, it will take approximately 3,000 labor hours to comply with the recordkeeping requirements of the revisions to Part 371 for full scope entities over and above the amount of time that would be expected to be required in order to comply with Current Part 371 for comparable entities. The implementation costs borne by covered institutions primarily include costs that would be incurred in order to accommodate the new data elements. They are anticipated to be incurred when an institution becomes in a troubled condition and begins maintaining the QFC information in accordance with Part 371. Full scope entities that are subject to Current Part 371 when the final rule becomes effective could incur some transition expenses. Ongoing costs of recordkeeping for the final rule are assumed to be approximately similar to those under Current Part 371. The labor hours necessary to comply with the final rule will vary greatly for each institution depending upon the size and complexity of the QFC portfolio, the efficiency of the institution's QFC information management system(s), and the availability and accessibility of information on QFCs. Therefore, they are difficult to accurately estimate. Additionally, a significant portion of the costs related to complying with the rule should be ameliorated for an institution that is a consolidated affiliate of a member of a corporate group subject to the Part 148, since the group's parent company should have already developed the capacity to meet the recordkeeping requirements for Part 148, which cover the same information, in the same format, as the final rule.

Finally, any implementation costs of the final rule are contingent upon an entity becoming in a troubled condition and subject to the final rule. Based on FDIC supervisory experience, it is estimated that two full scope entities per year, on average, will be subject to the recordkeeping requirements of the final rule. It is anticipated that the final rule will result in an additional 6,000 labor hours per year for covered institutions.[29] To comply with the recordkeeping requirements of the rule it is assumed that IDIs in troubled condition will employ attorneys, compliance officers, credit analysts, computer programmers, computer systems analysts, database administrators, financial managers, and computer information systems managers. The FDIC has estimated that the average hourly wage rate for recordkeepers to comply with the recordkeeping burden is approximately $95.50 per hour based on average hourly wage information by occupation from the U.S. Department of Labor, Bureau of Labor Statistics.[30] Therefore the FDIC estimates that the final rule will pose approximately $573,000 in expected additional compliance costs on average, each year, for full scope entities.

Limited Scope Entities

The final rule will likely pose some costs for limited scope entities, but those costs would be relatively small. Only slightly more QFC information is required to be maintained by limited scope entities to comply with the final rule relative to Current Part 371. The FDIC is proposing to remove three data elements from the Current Part 371 recordkeeping requirements while adding less than twenty additional data elements. The FDIC understands that

[29] This estimate is potentially somewhat greater than would be expected based upon past practice for two reasons. First, not all institutions that become in a troubled condition ultimately complete recordkeeping compliance, as their condition may improve so that they are no longer in a troubled condition before the commencement or completion of recordkeeping. Secondly, the same institution may have cycled in and out of troubled condition more than once in the 16-year look back period and therefore their recordkeeping costs may have been counted more than once. The additional recordkeeping costs could be significantly lower for subsequent instances of institutions becoming in troubled condition because the recordkeeping procedures and systems have already been established.

[30] The average hourly wage estimate is derived from May 2016 Occupational Employment Statistics (OES) from the Bureau of Labor Statistics (BLS) for depository credit intermediation occupations. The reported hourly wage rates are adjusted for changes in the CPI–U between May 2016 and March 2017 (1.86 percent) and grossed up by 155.3 percent to account for non-monetary compensation as reported by the March 2017 Employer Costs for Employee Compensation. Hourly wage rates represent the 75th percentile for Legal Occupations ($136.71), Computer Programmers ($80.49), Computer Systems Analyst ($86.32), Database Administrators ($92.22), Compliance Officers ($60.55), Credit Analysts ($72.82), Financial Managers ($104.41), and Computer and Information Systems Managers ($130.49).

most of the added data elements cover information that is either information that an IDI would need to ascertain in order to comply with Current Part 371 or that would otherwise be readily available to the IDI.

As of March 31, 2017 there were 5,824 FDIC-insured institutions with total consolidated assets less than $50 billion. Of those institutions 2,099 (36.0 percent) reported some amount of QFCs.[31] To estimate the number of institutions affected by the final rule the FDIC analyzed the frequency with which FDIC-insured institutions with consolidated assets of less than $50 billion became in a troubled condition. Based on supervisory experience, it is estimated that limited scope entities become in a troubled condition 304 times per year on average. The annual average estimate of institutions in troubled condition with consolidated assets of less than $50 billion is adjusted to 110 to reflect the number of institutions in troubled condition that are likely to be a party to some volume of QFCs, and therefore subject to the final rule.[32]

In the event that a limited scope entity becomes in a troubled condition, the FDIC assumes that it will take approximately 5 labor hours, on average, to comply with the added recordkeeping requirements of the revisions to Part 371. The implementation costs borne by covered institutions primarily include costs that would be incurred in order to accommodate the new data elements. They are anticipated to be incurred when an institution becomes in a troubled condition and begins maintaining the QFC information in accordance with Part 371. Ongoing costs of recordkeeping for the final rule are assumed to be approximately similar to those under Current Part 371. Therefore, the FDIC estimates that the added compliance costs associated with the final rule are 550 hours annually [33] for limited scope entities that are likely to become in a troubled condition.[34] However, assuming that the proportion of limited scope entities that become in a troubled condition in future years remains constant, 65 of the 110 estimated average annual limited scope entities that are likely to become in a troubled condition have less than $550 million in assets. They are therefore likely to have insignificant volumes of QFCs and an associated burden estimate of 1 hour or less. The labor hours necessary to comply with the final rule will vary greatly for each institution depending upon the size and complexity of its QFC portfolio, the efficiency of the institution's QFC information management system(s) and the availability and accessibility of information on QFCs. Therefore, the added compliance costs associated with the final rule are difficult to accurately estimate.

To comply with the recordkeeping requirements of the rule it is assumed that entities in troubled condition will employ attorneys, compliance officers, credit analysts, computer programmers, computer systems analysts, database administrators, financial managers, and computer information systems managers. The FDIC has estimated that the average hourly wage rate for recordkeepers to comply with the initial recordkeeping burden is approximately $95.50 per hour based on average hourly wage information by occupation from the U.S. Department of Labor, Bureau of Labor Statistics.[35] Therefore the FDIC estimates that the final rule will pose approximately $52,525 in expected compliance costs each year on average, for limited scope entities. However, the costs realized by limited scope entities as a result of the final rule are likely to be lower in the first few years given that the final rule allows covered entities already maintaining information in accordance with the current Part 371 rule to continue to do so.

All Covered Entities

The total estimated compliance costs for all covered entities, both full scope and limited scope, is approximately $625,525 each year. The realized compliance costs for covered entities are dependent upon future utilization rates of QFCs, and the propensity of institutions to become troubled. Therefore it is difficult to accurately estimate.

The final rule provides some relief from compliance costs relative to Current Part 371 by extending the time period allotted for an institution in troubled condition to start maintaining the required QFC information from 60 days to 270 days, with the exception of accelerated records entities. It has been the FDIC's experience that large institutions with complex QFC portfolios had difficulty meeting the current 60-day compliance deadline. Failure to meet the initial deadline necessitated multiple rounds of extension requests that were cumbersome and time-consuming for institutions in troubled condition and their primary regulator. By extending the compliance period to 270 days for all institutions, both ''full scope'' and ''limited scope'' entities, the final rule will reduce the overall compliance costs. Along with the extended the compliance period the final rule also requires institutions to include a project plan with their extension request. However, the inclusion of the project plan provision reflects current FDIC practice, and therefore, poses no additional burden.

The final rule will harmonize QFC recordkeeping requirements for full scope entities in troubled condition with the Part 148 requirements for other members of their corporate groups. This harmonization benefits these IDIs by enabling them to reduce costs by using information technology created for compliance with Part 148 by other members of their corporate group. Moreover, consistency of reporting across the corporate group will benefit the FDIC as receiver by enabling it to better analyze how an IDI's QFC positions relate to QFC positions of other members of the corporate group.

The final rule should also provide indirect benefits to QFC counterparties of institutions in troubled condition by helping the FDIC as receiver avoid unintended payment or delivery disruptions. The additional information required by the final rule includes detailed information about collateral,

[31] Consolidated Reports of Condition and Income, March 31, 2017.

[32] 2,099 FDIC-insured institutions with total consolidated assets of less than $50 billion out of 5,824 reported some volume of QFCs on their Consolidated Reports of Condition and Income. Therefore it is estimated that 36 percent of the historical average annual rate of institutions in a troubled condition had some volume of QFCs (304*0.36 = 110).

[33] The estimated average annual compliance burden hours for limited scope entities is the calculated as 110*5 hours, which equals 550 hours.

[34] As discussed previously with respect to full scope entities, this estimate is potentially somewhat greater than would be expected based upon past practice for two reasons. First, not all institutions that become in a troubled condition ultimately complete recordkeeping compliance, as their condition may improve so that they are no longer in a troubled condition before the commencement or completion of recordkeeping. Secondly, some institutions may be double-counted, because the same institution may have cycled in and out of troubled condition more than once in the 16-year look back period. The additional recordkeeping costs could be significantly lower the second time around.

[35] The average hourly wage estimate is derived from May 2016 Occupational Employment Statistics (OES) from the Bureau of Labor Statistics (BLS) for depository credit intermediation occupations. The reported hourly wage rates are adjusted for changes in the CPI–U between May 2016 and March 2017 (1.86 percent) and grossed up by 155.3 percent to account for non-monetary compensation as reported by the March 2017 Employer Costs for Employee Compensation. Hourly wage rates represent the 75th percentile for Legal Occupations ($136.71), Computer Programmers ($80.49), Computer Systems Analyst ($86.32), Database Administrators ($92.22), Compliance Officers ($60.55), Credit Analysts ($72.82), Financial Managers ($104.41), and Computer and Information Systems Managers ($130.49).

guarantees and credit enhancements which will significantly enhance the ability of the FDIC to judiciously exercise its rights and responsibilities related to QFC portfolios for institutions in troubled condition within the statutory one-business day stay period.

V. Alternatives Considered

The FDIC considered a number of alternatives in developing the final rule. The major alternatives include: (i) Expanding the recordkeeping scope to include IDIs subject to any cease-and-desist order by, or written agreement with, the appropriate federal banking agency; (ii) expanding the recordkeeping scope for records entities to include all subsidiaries; (iii) recordkeeping thresholds of above and below $10 billion or $50 billion in total consolidated assets; (iv) requiring all records entities to maintain QFC records under the tables in Appendix B; (iv) requiring the same compliance period for all records entities; (v) not requiring existing full scope records entities to transition to the new recordkeeping requirements; and (vi) requiring existing limited scope entities to transition to the new recordkeeping requirements.

The FDIC considered expanding the definition of ''troubled condition'' to include all cease-and-desist orders or written agreements issued by the appropriate Federal banking agency in addition to those requiring action to improve the financial condition of an IDI. In reviewing the types of orders and agreements, including stipulations and consent orders, that may be issued or entered into, the FDIC determined that the requirement with respect to an action to improve the financial condition of the IDI is appropriate because it is more likely that such orders relate to an institution for which failure is less remote than is likely the case in connection with other types of orders and agreements. As a result, the FDIC decided not to expand this prong of the definition of ''troubled condition.'' Nonetheless, this preamble clarifies (in Section III.B.2, ''*The Final Rule, Section-by-Section Analysis, Definitions*'') that an ''action to improve the financial condition,'' for purposes of this Part, may include, but is not limited to, an action to improve capital adequacy, asset quality, management, earnings, liquidity, and sensitivity to market risk.

The FDIC also considered requiring IDIs that report on Appendix B to report QFC information for all subsidiaries rather than only ''reportable subsidiaries.'' However, expanding the scope of recordkeeping to all subsidiaries would be burdensome and would also be redundant for corporate groups that are subject to Part 148 because QFC information for subsidiaries that are not reportable subsidiaries (other than IDIs and insurance companies) is required under Part 148.

In determining the scope of recordkeeping for records entities, the FDIC considered total consolidated asset thresholds above and below $50 billion. As discussed under Section III.A ''*The Final Rule, Summary*'', the FDIC determined the $50 billion threshold was appropriate because institutions at or above this threshold are more likely to have complex QFC portfolios and it is an asset level used in the several regulations cited in the above section that has been deemed appropriate for enhanced regulation and supervision. The FDIC determined that a threshold below $50 billion would impact smaller IDIs and unduly burden community banks.

The final rule requires certain records entities, as described previously, to maintain QFC records according to the tables in Appendix A or B depending on the size of the records entity.

The FDIC considered requiring the same compliance period for all records entities subject to this Part. Based on its experience, the FDIC has found that the longer period (270 days) is appropriate for larger entities. Larger entities that are required to report on Appendix B due to a composite CAMEL rating of 3 generally need a longer period to comply and, because an entity with a composite CAMEL rating of 3 is less likely to fail imminently, the additional time for recordkeeping should not pose significant additional risks that the FDIC as receiver will lack the information it needs with respect to the QFC portfolio. Entities with a composite CAMEL rating of 4 or 5 pose greater risk of near-term failure. For the same reason, the final rule will not increase the length of extensions available for 4 and 5 rated entities (30 days), regardless of their size. Although it may not be feasible for large entities with complex QFC portfolios to complete the recordkeeping requirements within 60 days, the short deadline with the requirement that extension requests be accompanied by progress reports and action plans will help assure that the recordkeeping requirements are being met in the most expeditious manner and that appropriate resources are being devoted to the effort by the IDI in troubled condition.

The FDIC also considered other transition requirements. The alternative of not requiring transition to the new recordkeeping requirements by full scope entities was rejected because of the importance of having available for these entities, that are more likely to have complex QFC portfolios, all of the additional information included in the final rule, should such an entity become subject to receivership. The FDIC also considered requiring existing limited scope entities to transition to the new recordkeeping requirements, but determined that given the limited nature of almost all existing limited scope entity QFC portfolios the added burden would exceed the benefit of requiring this transition.

Finally, the FDIC considered the alternatives suggested in the TCH/SIFMA Letter. As discussed in detail in Section II.C. ''*Background, Comment Received,*'' the FDIC accepted certain of the suggestions made in the letter and determined not to accept others.

VI. Regulatory Process

A. Paperwork Reduction Act

Certain provisions of the final rule contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act (''PRA'') of 1995 (44 U.S.C. 3501–3521). In accordance with the requirements of the PRA, the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OMB control number for this collection of information is 3064–0163. As required by the PRA and OMB implementing regulations (5 CFR part 1320), when the NPR was published, the FDIC submitted the information collection requirements contained in this final rulemaking to OMB for review and approval. OMB filed its Notice of Action with respect to that submission on March 17, 2017 requesting that the agency address any comments received in response to the NPR in the final rule. The FDIC received one comment letter submitted by two industry trade associations and fully addressed the comments as discussed in the preamble above.

As discussed above, the FDIC is amending its regulations regarding Part 371 which requires IDIs in a troubled condition to keep records relating to QFCs to which they are party. The FDIC estimates that the total compliance burden for covered entities, including full scope and limited scope entities, is as follows:

Title	Type of burden	Estimated number of respondents	Estimated number of responses	Estimated time per response	Frequency of response	Total annual estimated burden
Full Scope Entities: Recordkeeping related to QFCs to which they are a party when they are in troubled condition.	Recordkeeping	2	1	3,000	On Occasion	6,000
Limited Scope Entities: Recordkeeping related to QFCs to which they are a party when they are in troubled condition.	Recordkeeping	110	1	5	On Occasion	550
Total Burden	.....	.....	.....	.....	.....	6,550

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* requires an agency to provide a regulatory flexibility analysis with a final rule, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (defined by the Small Business Administration for purposes of the RFA to include banking entities with total assets of $550 million or less).

The final rule will not have a significant economic impact on a substantial number of small entities. Most small entities do not participate in capital markets involving QFCs since QFCs are generally sophisticated financial instruments that are usually used by larger financial institutions to hedge assets, provide funding, or increase income. According to data from the March 31, 2017 Consolidated Reports of Condition and Income the FDIC insures 4,553 small depository institutions and 1,171 (25.7 percent) report some volume of QFCs. To estimate the number of small institutions affected by the final rule the FDIC analyzed the frequency with which FDIC-insured institutions with consolidated assets less than $550 million became in a troubled condition. Based on FDIC supervisory experience, it is estimated that small institutions became in a troubled condition 252 times per year on average. The annual average estimate of institutions in troubled condition with consolidated assets less than $550 million is adjusted to 65 to reflect the number of institutions in troubled condition that are likely to be a party to some volume of QFCs, and therefore subject to the final rule.[36]

In the event that one of these small institutions becomes in a troubled condition, the FDIC assumes that it will take approximately one labor hour, on average, to comply with the added recordkeeping requirements of the revisions to Part 371. Small depository institutions generally do not have large and complex portfolios of QFCs and, therefore, the anticipated burden hours associated with the final rule is going to be low. Accordingly, the FDIC estimates that the added compliance costs associated with the final rule are 65 hours annually for all small institutions with some volume of QFCs that become in a troubled condition. The labor hours necessary to comply with the final rule will vary greatly for each institution depending upon the size and complexity of the QFC portfolio, the efficiency of the institution's QFC information management system(s) and the availability and accessibility of information on QFCs.

To comply with the recordkeeping requirements of the rule it is assumed that entities in troubled condition will employ attorneys, compliance officers, credit analysts, computer programmers, computer systems analysts, database administrators, financial managers, and computer information systems managers. The FDIC has estimated that the average hourly wage rate for recordkeepers to comply with the initial recordkeeping burden is approximately $95.50 per hour based on average hourly wage information by occupation from the U.S. Department of Labor, Bureau of Labor Statistics.[37] Therefore the FDIC estimates that the final rule will pose $6,208 in expected compliance costs each year on average, for small depository institutions. However, the costs realized by limited scope entities as a result of the final rule are likely to be lower in the first few years given that the final rule allows covered entities already maintaining information in accordance with the current Part 371 rule to continue to do so. For these reasons, the FDIC hereby certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

C. The Treasury and General Government Appropriations Act, 1999

The FDIC has determined that the final rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (Pub. L. 105–277, 112 Stat. 2681).

D. Small Business Regulatory Enforcement Act

The Office of Management and Budget has determined that the final rule is not a ''major rule'' within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), (5 U.S.C. 801 *et seq.*). As required by the SBREFA, the FDIC will file the appropriate reports with Congress and the General Accounting Office so that the final rule may be reviewed.

E. Riegle Community Development and Regulatory Improvement Act

The Riegle Community Development and Regulatory Improvement Act of 1994 requires that the FDIC, in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, subject to certain exceptions, new regulations that impose additional reporting, disclosures, or other new requirements on insured depository institutions must take effect on the first day of a calendar quarter that begins on or after the date

[36] 1,171 small FDIC-insured institutions out of 4,553 reported some volume of QFCs on their Consolidated Reports of Condition and Income. Therefore it is estimated that 25.7 percent of the historical average annual rate of small institutions in a troubled condition had some volume of QFCs (252*.257 = 65)

[37] The average hourly wage estimate is derived from May 2016 Occupational Employment Statistics (OES) from the Bureau of Labor Statistics (BLS) for depository credit intermediation occupations. The reported hourly wage rates are adjusted for changes in the CPI–U between May 2016 and March 2017 (1.86 percent) and grossed up by 155.3 percent to account for non-monetary compensation as reported by the March 2017 Employer Costs for Employee Compensation. Hourly wage rates represent the 75th percentile for Legal Occupations ($136.71), Computer Programmers ($80.49), Computer Systems Analyst ($86.32), Database Administrators ($92.22), Compliance Officers ($60.55), Credit Analysts ($72.82), Financial Managers ($104.41), and Computer and Information Systems Managers ($130.49).

on which the regulations are published in final form.

In accordance with these provisions and as discussed above, the FDIC considered any administrative burdens, as well as benefits, that the final rule would place on depository institutions and their customers in determining the effective date and administrative compliance requirements of the final rule. The final rule will be effective no earlier than the first day of a calendar quarter that begins on or after the date on which the final rule is published.

F. Plain Language

Section 722 of the Gramm-Leach-Bliley Act (Pub. L. 106–102, sec. 722, 113 Stat. 1338, 1471 (1999)) requires the FDIC to use plain language in all proposed and final rules published after January 1, 2000. The FDIC has sought to present the final rule in a simple and straightforward manner.

List of Subjects in 12 CFR Part 371

Administrative practice and procedure, Bank deposit insurance, Banking, Banks, Reporting and recordkeeping requirements, Securities, State non-member banks.

Authority and Issuance

■ For the reasons set forth in the preamble, the Federal Deposit Insurance Corporation revises 12 CFR part 371 to read as follows:

PART 371—RECORDKEEPING REQUIREMENTS FOR QUALIFIED FINANCIAL CONTRACTS

Sec.

Authority: 12 U.S.C. 1819(a)(Tenth); 1820(g); 1821(e)(8)(D) and (H); 1831g; 1831i; and 1831s.

§ 371.1 Scope, purpose, and compliance dates.

(a) *Scope.* This part applies to each insured depository institution that qualifies as a ''records entity'' under the definition set forth in § 371.2(r).

(b) *Purpose.* This part establishes recordkeeping requirements with respect to qualified financial contracts for insured depository institutions that are in a troubled condition.

(c) *Compliance dates.* (1) Within 3 business days of becoming a records entity, the records entity shall provide to the FDIC, in writing, the name and contact information for the person at the records entity who is responsible for recordkeeping under this part and, unless not required to maintain files in electronic form pursuant to § 371.4(d), a directory of the electronic files that will be used to maintain the information required to be kept by this part.

(2) Except as provided in § 371.6:

(i) A records entity, other than an accelerated records entity, shall comply with all applicable recordkeeping requirements of this part within 270 days after it becomes a records entity.

(ii) An accelerated records entity shall comply with all applicable recordkeeping requirements of this part within 60 days after it becomes a records entity.

(iii) Notwithstanding paragraphs (c)(2)(i) and (ii) of this section, a records entity that becomes an accelerated records entity after it became a records entity shall comply with all applicable recordkeeping requirements of this part within 60 days after it becomes an accelerated records entity or its original 270 day compliance period, whichever time period is shorter.

(d) *Extensions of time to comply.* The FDIC may, in its discretion, grant one or more extensions of time for compliance with the recordkeeping requirements of this part.

(1) Except as provided in paragraph (d)(2) of this section, no single extension for a records entity shall be for a period of more than 120 days.

(2) For a records entity that is an accelerated records entity at the time of a request for an extension, no single extension shall be for a period of more than 30 days.

(3) A records entity may request an extension of time by submitting a written request to the FDIC at least 15 days prior to the deadline for its compliance with the recordkeeping requirements of this part. The written request for an extension must contain a statement of the reasons why the records entity cannot comply by the deadline for compliance, a project plan (including timeline) for achieving compliance, and a progress report describing the steps taken to achieve compliance.

§ 371.2 Definitions.

For purposes of this part:

(a) *Accelerated records entity* means a records entity that:

(1) Has a composite rating, as determined by its appropriate Federal banking agency in its most recent report of examination, of 4 or 5 under the Uniform Financial Institution Rating System, or in the case of an insured branch of a foreign bank, an equivalent rating; or

(2) Is determined by the appropriate Federal banking agency or by the FDIC in consultation with the appropriate Federal banking agency to be experiencing a significant deterioration of capital or significant funding difficulties or liquidity stress, notwithstanding the composite rating of the institution by its appropriate Federal banking agency in its most recent report of examination.

(b) *Affiliate* means any entity that controls, is controlled by, or is under common control with another entity.

(c) *Appropriate Federal banking agency* means the agency or agencies designated under 12 U.S.C. 1813(q).

(d) *Business day* means any day other than any Saturday, Sunday or any day on which either the New York Stock Exchange or the Federal Reserve Bank of New York is closed.

(e) *Control.* An entity controls another entity if:

(1) The entity directly or indirectly or acting through one or more persons owns, controls, or has power to vote 25 per centum or more of any class of voting securities of the other entity;

(2) The entity controls in any manner the election of a majority of the directors or trustees of the other entity; or

(3) The Board of Governors of the Federal Reserve System has determined, after notice and opportunity for hearing in accordance with 12 CFR 225.31, that the entity directly or indirectly exercises a controlling influence over the management or policies of the other entity.

(f) *Corporate group* means an entity and all affiliates of that entity.

(g) *Counterparty* means any natural person or entity (or separate non-U.S. branch of any entity) that is a party to a QFC with a records entity or, if the records entity is required or chooses to maintain the records specified in § 371.4(b), a reportable subsidiary of such records entity.

(h) Effective date means October 1, 2017.

(i) *Full scope entity* means a records entity that has total consolidated assets equal to or greater than $50 billion or that is a Part 148 affiliate.

(j) *Insured depository institution* means any bank or savings association, as defined in 12 U.S.C. 1813, the deposits of which are insured by the FDIC.

(k) *Legal entity identifier* or *LEI* for an entity means the global legal entity identifier maintained for such entity by a utility accredited by the Global LEI Foundation or by a utility endorsed by the Regulatory Oversight Committee. As used in this definition:

(1) *Regulatory Oversight Committee* means the Regulatory Oversight Committee (of the Global LEI System), whose charter was set forth by the Finance Ministers and Central Bank Governors of the Group of Twenty and the Financial Stability Board, or any successor thereof; and

(2) *Global LEI Foundation* means the not-for-profit organization organized under Swiss law by the Financial Stability Board in 2014, or any successor thereof.

(l) *Limited scope entity* means a records entity that is not a full scope entity.

(m) *Parent entity* with respect to an entity means an entity that controls that entity.

(n) *Part 148* means 31 CFR part 148.

(o) *Part 148 affiliate* means a records entity that, on financial statements prepared in accordance with U.S. generally accepted accounting principles or other applicable accounting standards, consolidates, or is consolidated by or with (or is required to consolidate or be consolidated by or with), a member of a corporate group one or more members of which are required to maintain QFC records pursuant to Part 148.

(p) *Position* means an individual transaction under a qualified financial contract and includes the rights and obligations of a person or entity as a party to an individual transaction under a qualified financial contract.

(q) *Qualified financial contract* or *QFC* means any qualified financial contract as defined in 12 U.S.C. 1821(e)(8)(D), and any agreement or transaction that the FDIC determines by regulation, resolution, or order to be a QFC, including without limitation, any securities contract, commodity contract, forward contract, repurchase agreement, and swap agreement.

(r) *Records entity* means any insured depository institution that has received written notice from the institution's appropriate Federal banking agency or the FDIC that it is in a troubled condition and written notice from the FDIC that it is subject to the recordkeeping requirements of this part.

(s) *Reportable subsidiary* means any subsidiary of a records entity that is incorporated or organized under U.S. federal law or the laws of any State that is not:

(1) A functionally regulated subsidiary as defined in 12 U.S.C. 1844(c)(5);

(2) A security-based swap dealer as defined in 15 U.S.C. 78c(a)(71); or

(3) A major security-based swap participant as defined in 15 U.S.C. 78c(a)(67).

(t) *State* means any state, commonwealth, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam or the United States Virgin Islands.

(u) *Subsidiary,* with respect to another entity, means an entity that is, or is required to be, consolidated by such other entity on such other entity's financial statements prepared in accordance with U.S. generally accepted accounting principles or other applicable accounting standards.

(v) *Total consolidated assets* means the total consolidated assets of a records entity and its consolidated subsidiaries as reported in the records entity's most recent year-end audited consolidated statement of financial condition filed with the appropriate Federal banking agency.

(w) *Troubled condition* means an insured depository institution that:

(1) Has a composite rating, as determined by its appropriate Federal banking agency in its most recent report of examination, of 3 (only for insured depository institutions with total consolidated assets of $10 billion or greater), 4 or 5 under the Uniform Financial Institution Rating System, or in the case of an insured branch of a foreign bank, an equivalent rating;

(2) Is subject to a proceeding initiated by the FDIC for termination or suspension of deposit insurance;

(3) Is subject to a cease-and-desist order or written agreement issued by the appropriate Federal banking agency, as defined in 12 U.S.C. 1813(q), that requires action to improve the financial condition of the insured depository institution or is subject to a proceeding initiated by the appropriate Federal banking agency which contemplates the issuance of an order that requires action to improve the financial condition of the insured depository institution, unless otherwise informed in writing by the appropriate Federal banking agency;

(4) Is informed in writing by the insured depository institution's appropriate Federal banking agency that it is in troubled condition for purposes of 12 U.S.C. 1831i on the basis of the institution's most recent report of condition or report of examination, or other information available to the institution's appropriate Federal banking agency; or

(5) Is determined by the appropriate Federal banking agency or the FDIC in consultation with the appropriate Federal banking agency to be experiencing a significant deterioration of capital or significant funding difficulties or liquidity stress, notwithstanding the composite rating of the institution by its appropriate Federal banking agency in its most recent report of examination.

§ 371.3 Maintenance of records.

(a) *Form and availability.* (1) Unless it is not required to maintain records in electronic form as provided in § 371.4(d), a records entity shall maintain the records described in § 371.4 in electronic form and shall be capable of producing such records electronically in the format set forth in the appendices of this part.

(2) All such records shall be updated on a daily basis and shall be based upon values and information no less current than previous end-of-day values and information.

(3) Except as provided in § 371.4(d), a records entity shall compile the records described in § 371.4(a) or § 371.4(b) (as applicable) in a manner that permits aggregation and disaggregation of such records by counterparty. If the records are maintained pursuant to § 371.4(b), they must be compiled by the records entity on a consolidated basis for itself and its reportable subsidiaries in a manner that also permits aggregation and disaggregation of such records by the records entity and its reportable subsidiary.

(4) Records maintained pursuant to § 371.4(b) by a records entity that is a Part 148 affiliate shall be compiled consistently, in all respects, with records compiled by its affiliate(s) pursuant to Part 148.

(5) A records entity shall maintain each set of daily records for a period of not less than five business days.

(b) *Change in point of contact.* A records entity shall provide to the FDIC, in writing, any change to the name and contact information for the person at the records entity who is responsible for recordkeeping under this part within 3 business days of any change to such information.

(c) *Access to records.* A records entity shall be capable of providing the records specified in § 371.4 (based on the immediately preceding day's end-of-day values and information) to the FDIC no later than 7 a.m. (Eastern Time) each day. A records entity is required to make such records available to the FDIC following a written request by the FDIC

for such records. Any such written request shall specify the date such records are to be made available (and the period of time covered by the request) and shall provide the records entity at least 8 hours to respond to the request. If the request is made less than 8 hours before such 7 a.m. deadline, the deadline shall be automatically extended to the time that is 8 hours following the time of the request.

(d) *Maintenance of records after a records entity is no longer in a troubled condition.* A records entity shall continue to maintain the capacity to produce the records required under this part on a daily basis for a period of one year after the date that the appropriate Federal banking agency or the FDIC notifies the institution, in writing, that it is no longer in a troubled condition as defined in § 371.2(w).

(e) *Maintenance of records after an acquisition of a records entity.* If a records entity ceases to exist as an insured depository institution as a result of a merger or a similar transaction with an insured depository institution that is not in a troubled condition immediately following the transaction, the obligation to maintain records under this part on a daily basis will terminate when the records entity ceases to exist as a separately insured depository institution.

§ 371.4 Content of records.

(a) *Limited scope entities.* Except as provided in § 371.6, a limited scope entity must maintain (at the election of such records entity) either the records described in paragraph (b) of this section or the following records:

(1) The position-level data listed in Table A–1 in Appendix A of this part with respect to each QFC to which it is a party, without duplication.

(2) The counterparty-level data listed in Table A–2 in Appendix A of this part with respect to each QFC to which it is a party, without duplication.

(3) The corporate organization master table in Appendix A of this part for the records entity and its affiliates.

(4) The counterparty master table in Appendix A of this part with respect to each QFC to which it is a party, without duplication.

(5) All documents that govern QFC transactions between the records entity and each counterparty, including, without limitation, master agreements and annexes, schedules, netting agreements, supplements, or other modifications with respect to the agreements, confirmations for each QFC position that has been confirmed and all trade acknowledgments for each QFC position that has not been confirmed, all credit support documents including, but not limited to, credit support annexes, guarantees, keep-well agreements, or net worth maintenance agreements that are relevant to one or more QFCs, and all assignment or novation documents, if applicable, including documents that confirm that all required consents, approvals, or other conditions precedent for such assignment or novation have been obtained or satisfied.

(6) A list of vendors directly supporting the QFC-related activities of the records entity and the vendors' contact information.

(b) *Full scope entities.* Except as provided in § 371.6, a full scope entity must maintain the following records:

(1) The position-level data listed in Table A–1 in Appendix B of this part with respect to each QFC to which it or any of its reportable subsidiaries is a party, without duplication.

(2) The counterparty-level data listed in Table A–2 in Appendix B of this part with respect to each QFC to which it or any of its reportable subsidiaries is a party, without duplication.

(3) The legal agreements information listed in Table A–3 in Appendix B of this part with respect to each QFC to which it or any of its reportable subsidiaries is a party, without duplication.

(4) The collateral detail data listed in Table A–4 in Appendix B of this part with respect to each QFC to which it or any of its reportable subsidiaries is a party, without duplication.

(5) The corporate organization master table in Appendix B of this part for the records entity and its affiliates.

(6) The counterparty master table in Appendix B of this part with respect to each QFC to which it or any of its reportable subsidiaries is a party, without duplication.

(7) The booking location master table in Appendix B of this part for each booking location used with respect to each QFC to which it or any of its reportable subsidiaries is a party, without duplication.

(8) The safekeeping agent master table in Appendix B of this part for each safekeeping agent used with respect to each QFC to which it or any of its reportable subsidiaries is a party, without duplication.

(9) All documents that govern QFC transactions between the records entity (or any of its reportable subsidiaries) and each counterparty, including, without limitation, master agreements and annexes, schedules, netting agreements, supplements, or other modifications with respect to the agreements, confirmations for each QFC position that has been confirmed and all trade acknowledgments for each QFC position that has not been confirmed, all credit support documents including, but not limited to, credit support annexes, guarantees, keep-well agreements, or net worth maintenance agreements that are relevant to one or more QFCs, and all assignment or novation documents, if applicable, including documents that confirm that all required consents, approvals, or other conditions precedent for such assignment or novation have been obtained or satisfied.

(10) A list of vendors directly supporting the QFC-related activities of the records entity and its reportable subsidiaries and the vendors' contact information.

(c) *Change in recordkeeping status.* (1) A records entity that was a limited scope entity maintaining the records specified in paragraphs (a)(1) through (6) of this section and that subsequently becomes a full scope entity must maintain the records specified in paragraph (b) of this section within 270 days of becoming a full scope entity (or 60 days of becoming a full scope entity if it is an accelerated records entity). Until the records entity maintains the records required by paragraph (b) of this section it must continue to maintain the records required by paragraphs (a)(1) through (6) of this section.

(2) A records entity that was a full scope entity maintaining the records specified in paragraph (b) of this section and that subsequently becomes a limited scope entity may continue to maintain the records specified in paragraph (b) of this section or, at its option, may maintain the records specified in paragraphs (a)(1) through (6) of this section, provided however, that such records entity shall continue to maintain the records specified in paragraph (b) of this section until it maintains the records specified in paragraphs (a)(1) through (6) of this section.

(3) A records entity that changes from a limited scope entity to a full scope entity and at the time it becomes a full scope entity is not yet maintaining the records specified in paragraph (a) of this section or paragraph (b) of this section must satisfy the recordkeeping requirements of paragraph (b) of this section within 270 days of first becoming a records entity (or 60 days of first becoming a records entity if it is an accelerated records entity).

(4) A records entity that changes from a full scope entity to a limited scope entity and at the time it becomes a limited scope entity is not yet maintaining the records specified in paragraph (b) of this section must satisfy the recordkeeping requirements of

paragraph (a) of this section within 270 days of first becoming a record entity (or 60 days of first becoming a record entity if it is an accelerated records entity).

(d) *Records entities with 50 or fewer QFC positions.* Notwithstanding any other requirement of this part, if a records entity and, if it is a full scope entity, its reportable subsidiaries, have 50 or fewer open QFC positions in total (without duplication) on the date the institution becomes a records entity, the records required by this section are not required to be recorded and maintained in electronic form as would otherwise be required by this section, so long as all required records are capable of being updated on a daily basis. If at any time after it becomes a records entity, the institution and, if it is a full scope entity, its reportable subsidiaries, if applicable, have more than 50 open QFC positions in total (without duplication), it must record and maintain records in electronic form as required by this section within 270 days (or, if it is an accelerated records entity at that time, within 60 days). The records entity must provide to the FDIC, within 3 business days of reaching the 51–QFC threshold, a directory of the electronic files that will be used to maintain the information required to be kept by this section.

§ 371.5 Exemptions.

(a) *Request.* A records entity may request an exemption from one or more of the requirements of § 371.4 by submitting a written request to the Executive Secretary of the FDIC referring to this part. The written request for an exemption must:

(1) Specify the requirement(s) under this part from which the records entity is requesting to be exempt and whether the exemption is sought to apply solely to the records entity or to one or more identified reportable subsidiaries of the records entity or to the records entity and one or more identified reportable subsidiaries;

(2) Specify the reasons why it would be appropriate for the FDIC to grant the exemption;

(3) Specify the reasons why granting the exemption will not impair or impede the FDIC's ability to fulfill its statutory obligations under 12 U.S.C. 1821(e)(8), (9), or (10) or the FDIC's ability to obtain a comprehensive understanding of the QFC exposures of the records entity and its reportable subsidiaries; and

(4) Include such additional information (if any) that the FDIC may require.

(b) *Determination.* Following its evaluation of a request for exemption, the FDIC will determine, in its sole discretion, whether to grant or deny the request.

§ 371.6 Transition for existing records entities.

(a) *Limited scope entities.* Notwithstanding any other provision of this part, an insured depository institution that became a records entity prior to October 1, 2017, and constitutes a limited scope entity on October 1, 2017, shall continue to comply with this part as in effect immediately prior to October 1, 2017, or, if it elects to comply with this part as in effect on and after October 1, 2017, as so in effect, for so long as the entity remains a limited scope entity that has not ceased to be required to maintain the capacity to produce records pursuant to § 371.3(d).

(b) Transition for full scope entities maintaining records on effective date. If an insured depository institution that constitutes a full scope entity on October 1, 2017, became a records entity prior to October 1, 2017, and is maintaining the records required by this part as in effect immediately prior to October 1, 2017, then:

(1) Except as provided in paragraph (b)(2) of this section, such records entity shall comply with the recordkeeping requirements of this part within 270 days after October 1, 2017 (or no later than 60 days after October 1, 2017 if it is an accelerated records entity); and

(2) If—

(i) Such records entity is a Part 148 affiliate and, on October 1, 2017, is not an accelerated records entity; and

(ii) The compliance date for any other member of such record entity's corporate group to comply with Part 148 is set forth in 31 CFR 148.1(d)(1)(i)(B),(C), or (D), as in effect on October 1, 2017, such records entity shall be permitted to delay compliance with the recordkeeping requirements of this part until the first date on which members of any corporate group of which such records entity is a member is required to comply with Part 148 pursuant to 31 CFR 148.1(d)(1)(i)(B),(C), or (D), as in effect on October 1, 2017; provided, that if such records entity becomes an accelerated records entity, it shall comply with the recordkeeping requirements of this part no later than 60 days after it becomes an accelerated records entity; provided, that in the case of each of paragraphs (b)(1) and (2) of this section until such full scope entity maintains the records required by § 371.4, it continues to maintain the records required by this part as in effect immediately prior to October 1, 2017.

(c) *Transition for full scope entities not maintaining records on effective date.* If an insured depository institution that constitutes a full scope entity on October 1, 2017, became a records entity prior to October 1, 2017, but is not maintaining the records required by this part as in effect immediately prior to October 1, 2017, such records entity shall comply with all recordkeeping requirements of this part within 270 days after the date that it first became a records entity (or no later than 60 days after it first became a records entity if it is an accelerated records entity).

§ 371.7 Enforcement actions.

Violating the terms or requirements set forth in this part constitutes a violation of a regulation and subjects the records entity to enforcement actions under Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818).

Appendix A to Part 371—File Structure for Qualified Financial Contract (QFC) Records for Limited Scope Entities

TABLE A–1—POSITION-LEVEL DATA

	Field	Example	Instructions and data application	Definition	Validation
A1.1	As of date	2015–01–05	Provide data extraction date ...	YYYY–MM–DD	
A1.2	Records entity identifier	999999999	Provide LEI for records entity if available. Information needed to review position-level data by records entity.	Varchar(50)	Validated against CO.2.

TABLE A–1—POSITION-LEVEL DATA—Continued

	Field	Example	Instructions and data application	Definition	Validation
A1.3	Position identifier	20058953	Provide a position identifier. Use the unique transaction identifier if available. Information needed to readily track and distinguish positions.	Varchar(100).	
A1.4	Counterparty identifier	888888888	Provide a counterparty identifier. Use LEI if counterparty has one. Information needed to identify counterparty by reference to Counterparty Master Table.	Varchar(50)	Validated against CP.2.
A1.5	Internal booking location identifier.	New York, New York.	Provide office where the position is booked. Information needed to determine system on which the trade is booked and settled.	Varchar(50).	
A1.6	Unique booking unit or desk identifier.	xxxxxx	Provide an identifier for unit or desk at which the position is booked. Information needed to help determine purpose of position.	Varchar(50).	
A1.7	Type of QFC	Credit, equity, foreign exchange, interest rate (including cross-currency), other commodity, securities repurchase agreement, securities lending, loan repurchase agreement, guarantee or other third party credit enhancement of a QFC.	Provide type of QFC. Use unique product identifier if available. Information needed to determine the nature of the QFC.	Varchar(100).	
A1.8	Type of QFC covered by guarantee or other third party credit enhancement.	Credit, equity, foreign exchange, interest rate (including cross-currency), other commodity, securities repurchase agreement, securities lending, or loan repurchase agreement.	If QFC type is guarantee or other third party credit enhancement, provide type of QFC that is covered by such guarantee or other third party credit enhancement. Use unique product identifier if available. If multiple asset classes are covered by the guarantee or credit enhancement, enter the asset classes separated by comma. If all the QFCs of the underlying QFC obligor identifier are covered by the guarantee or other third party credit enhancement, enter "All".	Varchar(200)	Only required if QFC type (A1.7) is a guarantee or other third party credit enhancement.
A1.9	Underlying QFC obligor identifier.	888888888	If QFC type is guarantee or other third party credit enhancement, provide an identifier for the QFC obligor whose obligation is covered by the guarantee or other third party credit enhancement. Use LEI if underlying QFC obligor has one. Complete the counterparty master table with respect to a QFC obligor that is a non-affiliate.	Varchar(50)	Only required if QFC asset type (A1.7) is a guarantee or other third party credit enhancement. Validated against CO.2 if affiliate or CP.2 if non-affiliate.

TABLE A–1—POSITION-LEVEL DATA—Continued

	Field	Example	Instructions and data application	Definition	Validation
A1.10	Agreement identifier	xxxxxxxxx	Provide an identifier for primary governing documentation, e.g. the master agreement or guarantee agreement, as applicable.	Varchar(50).	
A1.11	Netting agreement identifier	xxxxxxxxx	Provide an identifier for netting agreement. If this agreement is the same as provided in A1.10, use same identifier. Information needed to identify unique netting sets.	Varchar(50).	
A1.12	Netting agreement counterparty identifier.	xxxxxxxxx	Provide a netting agreement counterparty identifier. Use same identifier as provided in A1.4 if counterparty and netting agreement counterparty are the same. Use LEI if netting agreement counterparty has one. Information needed to identify unique netting sets.	Varchar(50)	Validated against CP.2
A1.13	Trade date	2014–12–20	Provide trade or other commitment date for the QFC. Information needed to determine when the entity's rights and obligations regarding the position originated.	YYYY–MM–DD.	
A1.14	Termination date	2014–03–31	Provide date the QFC terminates or is expected to terminate, expire, mature, or when final performance is required. Information needed to determine when the entity's rights and obligations regarding the position are expected to end.	YYYY–MM–DD.	
A1.15	Next call, put, or cancellation date.	2015–01–25	Provide next call, put, or cancellation date.	YYYY–MM–DD.	
A1.16	Next payment date	2015–01–25	Provide next payment date	YYYY–MM–DD.	
A1.17	Current market value of the position in U.S. dollars.	995000	In the case of a guarantee or other third party credit enhancements, provide the current mark-to-market expected value of the exposure. Information needed to determine the current size of the obligation/benefit associated with the QFC.	Num (25,5).	
A1.18	Notional or principal amount of the position In U.S. dollars.	1000000	Provide the notional or principal amount, as applicable, in U.S. dollars. In the case of a guarantee or other third party credit enhancements, provide the maximum possible exposure. Information needed to help evaluate the position.	Num (25,5).	
A1.19	Covered by third-party credit enhancement agreement (for the benefit of the records entity)?	Y/N	Indicate whether QFC is covered by a guarantee or other third-party credit enhancement. Information needed to determine credit enhancement.	Char(1)	Should be "Y" or "N"

TABLE A–1—POSITION-LEVEL DATA—Continued

	Field	Example	Instructions and data application	Definition	Validation
A1.20	Third-party credit enhancement provider identifier (for the benefit of the records entity).	999999999	If QFC is covered by a guarantee or other third-party credit enhancement, provide an identifier for provider. Use LEI if available. Complete the counterparty master table with respect to a provider that is a non-affiliate.	Varchar(50)	Required if A1.20 is "Y". Validated against CP.2
A1.21	Third-party credit enhancement agreement identifier (for the benefit of the records entity).	.....	If QFC is covered by a guarantee or other third-party credit enhancement, provide an identifier for the agreement.	Varchar(50)	Required if A1.20 is "Y".
A1.22	Related position of records entity.	3333333	Use this field to link any related positions of the records entity. All positions that are related to one another should have same designation in this field.	Varchar(100).	
A1.23	Reference number for any related loan.	9999999	Provide a unique reference number for any loan held by the records entity or a member of its corporate group related to the position (with multiple entries delimited by commas).	Varchar(500).	
A1.24	Identifier of the lender of the related loan.	999999999	For any loan recorded in A1.23, provide identifier for records entity or member of its corporate group that holds any related loan. Use LEI if entity has one.	Varchar(500).	

TABLE A–2—COUNTERPARTY NETTING SET DATA

	Field	Example	Instructions and data application	Def	Validation
A2.1 ..	As of date	2015–01–05	Data extraction date	YYYY–MM–DD	
A2.2 ..	Records entity identifier	999999999	Provide the LEI for the records entity if available.	Varchar(50)	Validated against CO.2.
A2.3 ..	Netting agreement counterparty identifier.	888888888	Provide an identifier for the netting agreement counterparty. Use LEI if counterparty has one.	Varchar(50)	Validated against CP.2.
A2.4 ..	Netting agreement identifier	xxxxxxxxx	Provide an identifier for the netting agreement.	Varchar(50).	
A2.5 ..	Underlying QFC obligor identifier	888888888	Provide identifier for underlying QFC obligor if netting agreement is associated with a guarantee or other third party credit enhancement. Use LEI if available.	Varchar(50)	Validated against CO.2 or CP.2.
A2.6 ..	Covered by third-party credit enhancement agreement (for the benefit of the records entity)?.	Y/N	Indicate whether the positions subject to the netting set agreement are covered by a third-party credit enhancement agreement.	Char(1)	Should be "Y" or "N".
A2.7 ..	Third-party credit enhancement provider identifier (for the benefit of the records entity).	999999999	Use LEI if available. Information needed to identity third-party credit enhancement provider.	Varchar(50)	Required if A2.6 is "Y". Should be a valid entry in the Counterparty Master Table. Validated against CP.2.
A2.8 ..	Third-party credit enhancement agreement identifier (for the benefit of the records entity).	4444444	.....	Varchar(50)	Required if A2.6 is "Y".

TABLE A–2—COUNTERPARTY NETTING SET DATA—Continued

	Field	Example	Instructions and data application	Def	Validation
A2.9 ..	Aggregate current market value in U.S. dollars of all positions under this netting agreement.	–1000000	Information needed to help evaluate the positions subject to the netting agreement.	Num (25,5)	Market value of all positions in A1 for the given netting agreement identifier should be equal to this value. A2.9 = A2.10 + A2.11.
A2.10	Current market value in U.S. dollars of all positive positions, as aggregated under this netting agreement.	3000000	Information needed to help evaluate the positions subject to the netting agreement.	Num (25,5)	Market value of all positive positions in A1 for the given netting agreement identifier should be equal to this value. A2.9 = A2.10 + A2.11.
A2.11	Current market value in U.S. dollars of all negative positions, as aggregated under this netting agreement.	–4000000	Information needed to help evaluate the positions subject to the netting agreement.	Num (25,5)	Market value of all negative positions in A1 for the given Netting Agreement Identifier should be equal to this value. A2.9 = A2.10 + A2.11.
A2.12	Current market value in U.S. dollars of all collateral posted by records entity, as aggregated under this netting agreement.	950000	Information needed to determine the extent to which collateral has been provided by records entity.	Num (25,5).	
A2.13	Current market value in U.S. dollars of all collateral posted by counterparty, as aggregated under this netting agreement.	50000	Information needed to determine the extent to which collateral has been provided by counterparty.	Num (25,5).	
A2.14	Records entity collateral—net	950,000	Provide records entity's collateral excess or deficiency with respect to all of its positions, as determined under each applicable agreement, including thresholds and haircuts where applicable.	Num (25,5)	Should be less than or equal to A2.15.
A2.15	Counterparty collateral—net	950,000	Provide counterparty's collateral excess or deficiency with respect to all of its positions, as determined under each applicable agreement, including thresholds and haircuts where applicable.	Num (25,5)	Should be less than or equal to A2.16.
A2.16	Next margin payment date	2015–11–05	Provide next margin payment date for position.	YYYY–MM–DD.	
A2.17	Next margin payment amount in U.S. dollars.	150,000	Use positive value if records entity is due a payment and use negative value if records entity has to make the payment.	Num (25,5).	

CORPORATE ORGANIZATION MASTER TABLE *

	Field	Example	Instructions and data application	Def	Validation
CO.1	As of date	2015–01–05	Data extraction date	YYYY–MM–DD.	
CO.2	Entity identifier	888888888	Provide unique identifier. Use LEI if available. Information needed to identify entity.	Varchar(50)	Should be unique across all record entities.
CO.3	Has LEI been used for entity identifier?	Y/N	Specify whether the entity identifier provided is an LEI..	Char(1)	Should be "Y" or "N".
CO.4	Legal name of entity	John Doe & Co. ..	Provide legal name of entity	Varchar(200).	
CO.5	Immediate parent entity identifier	77777777	Use LEI if available. Information needed to complete org structure.	Varchar(50).	
CO.6	Has LEI been used for immediate parent entity identifier?	Y/N	Specify whether the immediate parent entity identifier provided is an LEI.	Char(1)	Should be "Y" or "N".

CORPORATE ORGANIZATION MASTER TABLE *—Continued

	Field	Example	Instructions and data application	Def	Validation
CO.7	Legal name of immediate parent entity.	John Doe & Co. ..	Information needed to complete org structure.	Varchar(200).	
CO.8	Percentage ownership of immediate parent entity in the entity.	100.00	Information needed to complete org structure.	Num (5,2).	
CO.9	Entity type	Subsidiary, foreign branch, foreign division.	Information needed to complete org structure.	Varchar(50).	
CO.10	Domicile	New York, New York.	Enter as city, state or city, foreign country.	Varchar(50).	
CO.11	Jurisdiction under which incorporated or organized.	New York	Enter as state or foreign jurisdiction.	Varchar(50).	

*Foreign branches and divisions shall be separately identified to the extent they are identified in an entity's reports to its appropriate Federal banking agency.

COUNTERPARTY MASTER TABLE

	Field	Example	Instructions and data application	Def	Validation
CP.1 ..	As of date	2015–01–05	Data extraction date	YYYY–MM–DD.	
CP.2 ..	Counterparty identifier	888888888	Use LEI if counterparty has one The counterparty identifier shall be the global legal entity identifier if one has been issued to the entity. If a counterparty transacts with the records entity through one or more separate foreign branches or divisions and any such branch or division does not have its own unique global legal entity identifier, the records entity must include additional identifiers, as appropriate to enable the FDIC to aggregate or disaggregate the data for each counterparty and for each entity with the same ultimate parent entity as the counterparty.	Varchar(50).	
CP.3 ..	Has LEI been used for counterparty identifier?	Y/N	Indicate whether the counterparty identifier is an LEI.	Char(1)	Should be "Y" or "N".
CP.4 ..	Legal name of counterparty	John Doe & Co ...	Information needed to identify and, if necessary, communicate with counterparty.	Varchar(200).	
CP.5 ..	Domicile	New York, New York.	Enter as city, state or city, foreign country.	Varchar(50).	
CP.6 ..	Jurisdiction under which incorporated or organized.	New York	Enter as state or foreign jurisdiction.	Varchar(50).	
CP.7 ..	Immediate parent entity identifier	77777777	Provide an identifier for the parent entity that directly controls the counterparty. Use LEI if immediate parent entity has one.	Varchar(50).	
CP.8 ..	Has LEI been used for immediate parent entity identifier?	Y/N	Indicate whether the immediate parent entity identifier is an LEI.	Char(1)	Should be "Y" or "N".
CP.9 ..	Legal name of immediate parent entity.	John Doe & Co ...	Information needed to identify and, if necessary, communicate with counterparty.	Varchar(200).	
CP.10	Ultimate parent entity identifier ..	666666666	Provide an identifier for the parent entity that is a member of the corporate group of the counterparty that is not controlled by another entity. Information needed to identify counterparty. Use LEI if ultimate parent entity has one.	Varchar(50).	

COUNTERPARTY MASTER TABLE—Continued

	Field	Example	Instructions and data application	Def	Validation
CP.11	Has LEI been used for ultimate parent entity identifier?	Y/N	Indicate whether the ultimate parent entity identifier is an LEI.	Char(1)	Should be "Y" or "N".
CP.12	Legal name of ultimate parent entity.	John Doe & Co	Information needed to identify and, if necessary, communicate with counterparty.	Varchar(100).	

DETAILS OF FORMATS

Format	Content in brief	Additional explanation	Examples
YYYY–MM–DD	Date	YYYY = four digit date, MM = 2 digit month, DD = 2 digit date	2015–11–12
Num (25,5)	Up to 25 numerical characters including 5 decimals.	Up to 20 numerical characters before the decimal point and up to 5 numerical characters after the decimal point. The dot character is used to separate decimals.	1352.67 12345678901234567890 12345 0 −20000.25 −0.257
Char(3)	3 alphanumeric characters.	The length is fixed at 3 alphanumeric characters.	USD X1X 999
Varchar(25)	Up to 25 alphanumeric characters.	The length is not fixed but limited at up to 25 alphanumeric characters.	asgaGEH3268EFdsagtTRCF543

Appendix B to Part 371—File Structure for Qualified Financial Contract Records for Full Scope Entities

Pursuant to § 371.4(b), the records entity is required to provide the information required by this appendix B for itself and each of its reportable subsidiaries in a manner that can be disaggregated by legal entity. Accordingly, the reference to ''records entity'' in the tables of appendix B should be read as referring to each of the separate legal entities (*i.e.,* the records entity and each reportable subsidiary).

TABLE A–1—POSITION-LEVEL DATA

	Field	Example	Instructions and data application	Definition	Validation
A1.1	As of date	2015–01–05	Provide data extraction date	YYYY–MM–DD.	
A1.2	Records entity identifier	999999999	Provide LEI for records entity. Information needed to review position-level data by records entity.	Varchar(50)	Validated against CO.2.
A1.3	Position identifier	20058953	Provide a position identifier. Should be used consistently across all records entities. Use the unique transaction identifier if available. Information needed to readily track and distinguish positions.	Varchar(100).	
A1.4	Counterparty identifier	888888888	Provide a counterparty identifier. Use LEI if counterparty has one. Should be used consistently by all records entities. Information needed to identify counterparty by reference to Counterparty Master Table.	Varchar(50)	Validated against CP.2.
A1.5	Internal booking location identifier.	New York, New York.	Provide office where the position is booked. Information needed to determine system on which the trade is booked and settled.	Varchar(50)	Combination A1.2 + A1.5 + A1.6 should have a corresponding unique combination BL.2 + BL.3 + BL.4 entry in Booking Location Master Table.

TABLE A–1—POSITION-LEVEL DATA—Continued

	Field	Example	Instructions and data application	Definition	Validation
A1.6	Unique booking unit or desk identifier.	xxxxxx	Provide an identifier for unit or desk at which the position is booked. Information needed to help determine purpose of position.	Varchar(50)	Combination A1.2 + A1.5 + A1.6 should have a corresponding unique combination BL.2 + BL.3 + BL.4 entry in Booking Location Master Table.
A1.7	Type of QFC	Credit, equity, foreign exchange, interest rate (including cross-currency), other commodity, securities repurchase agreement, securities lending, loan repurchase agreement, guarantee or other third party credit enhancement of a QFC.	Provide type of QFC. Use unique product identifier if available. Information needed to determine the nature of the QFC.	Varchar(100).	
A1.7.1	Type of QFC covered by guarantee or other third party credit enhancement.	Credit, equity, foreign exchange, interest rate (including cross-currency), other commodity, securities repurchase agreement, securities lending, or loan repurchase agreement.	If QFC type is guarantee or other third party credit enhancement, provide type of QFC that is covered by such guarantee or other third party credit enhancement. Use unique product identifier if available. If multiple asset classes are covered by the guarantee or credit enhancement, enter the asset classes separated by comma. If all the QFCs of the underlying QFC obligor identifier are covered by the guarantee or other third party credit enhancement, enter "All.".	Varchar(500)	Only required if QFC type (A1.7) is a guarantee or other third party credit enhancement.
A1.7.2	Underlying QFC obligor identifier.	888888888	If QFC type is guarantee or other third party credit enhancement, provide an identifier for the QFC obligor whose obligation is covered by the guarantee or other third party credit enhancement. Use LEI if underlying QFC obligor has one. Complete the counterparty master table with respect to a QFC obligor that is a non-affiliate.	Varchar(50)	Only required if QFC asset type (A1.7) is a guarantee or other third party credit enhancement. Validated against CO.2 if affiliate or CP.2 if non-affiliate.
A1.8	Agreement identifier	xxxxxxxxx	Provide an identifier for the primary governing documentation, *e.g.,* the master agreement or guarantee agreement, as applicable.	Varchar(50)	Validated against A3.3.
A1.9	Netting agreement identifier	xxxxxxxxx	Provide an identifier for netting agreement. If this agreement is the same as provided in A1.8, use same identifier. Information needed to identify unique netting sets.	Varchar(50)	Validated against A3.3.

TABLE A–1—POSITION-LEVEL DATA—Continued

	Field	Example	Instructions and data application	Definition	Validation
A1.10	Netting agreement counterparty identifier.	xxxxxxxxx	Provide a netting agreement counterparty identifier. Use same identifier as provided in A1.4 if counterparty and netting agreement counterparty are the same. Use LEI if netting agreement counterparty has one. Information needed to identify unique netting sets.	Varchar(50)	Validated against CP.2.
A1.11	Trade date	2014–12–20	Provide trade or other commitment date for the QFC. Information needed to determine when the entity's rights and obligations regarding the position originated.	YYYY–MM–DD.	
A1.12	Termination date	2014–03–31	Provide date the QFC terminates or is expected to terminate, expire, mature, or when final performance is required. Information needed to determine when the entity's rights and obligations regarding the position are expected to end.	YYYY–MM–DD.	
A1.13	Next call, put, or cancellation date.	2015–01–25	Provide next call, put, or cancellation date.	YYYY–MM–DD.	
A1.14	Next payment date	2015–01–25	Provide next payment date	YYYY–MM–DD.	
A1.15	Local Currency Of Position	USD	Provide currency in which QFC is denominated. Use ISO currency code.	Char(3).	
A1.16	Current market value of the position in local currency.	995000	Provide current market value of the position in local currency. In the case of a guarantee or other third party credit enhancements, provide the current mark-to-market expected value of the exposure. Information needed to determine the current size of the obligation or benefit associated with the QFC.	Num (25,5).	
A1.17	Current market value of the position in U.S. dollars.	995000	In the case of a guarantee or other third party credit enhancements, provide the current mark-to-market expected value of the exposure. Information needed to determine the current size of the obligation/benefit associated with the QFC.	Num (25,5).	
A1.18	Asset Classification	1	Provide fair value asset classification under GAAP, IFRS, or other accounting principles or standards used by records entity. Provide ''1'' for Level 1, ''2'' for Level 2, or ''3'' for Level 3. Information needed to assess fair value of the position.	Char(1).	
A1.19	Notional or principal amount of the position in local currency.	1000000	Provide the notional or principal amount, as applicable, in local currency. In the case of a guarantee or other third party credit enhancement, provide the maximum possible exposure. Information needed to help evaluate the position.	Num (25,5).	

TABLE A–1—POSITION-LEVEL DATA—Continued

	Field	Example	Instructions and data application	Definition	Validation
A1.20	Notional or principal amount of the position In U.S. dollars.	1000000	Provide the notional or principal amount, as applicable, in U.S. dollars. In the case of a guarantee or other third party credit enhancements, provide the maximum possible exposure. Information needed to help evaluate the position.	Num (25,5).	
A1.21	Covered by third-party credit enhancement agreement (for the benefit of the records entity)?	Y/N	Indicate whether QFC is covered by a guarantee or other third-party credit enhancement. Information needed to determine credit enhancement.	Char(1).	Should be ''Y'' or ''N''.
A1.21.1 ...	Third-party credit enhancement provider identifier (for the benefit of the records entity).	999999999	If QFC is covered by a guarantee or other third-party credit enhancement, provide an identifier for provider. Use LEI if available. Complete the counterparty master table with respect to a provider that is a non-affiliate.	Varchar(50)	Required if A1.21 is ''Y''. Validated against CP.2.
A1.21.2 ...	Third-party credit enhancement agreement identifier (for the benefit of the records entity).	4444444	If QFC is covered by a guarantee or other third-party credit enhancement, provide an identifier for the agreement.	Varchar(50)	Required if A1.21 is ''Y.'' Validated against A3.3.
A1.21.3 ...	Covered by third-party credit enhancement agreement (for the benefit of the counterparty)?	Y/N	Indicate whether QFC is covered by a guarantee or other third-party credit enhancement. Information needed to determine credit enhancement.	Char(1)	Should be ''Y'' or ''N''.
A1.21.4 ...	Third-party credit enhancement provider identifier (for the benefit of the counterparty).	999999999	If QFC is covered by a guarantee or other third-party credit enhancement, provide an identifier for provider. Use LEI if available. Complete the counterparty master table with respect to a provider that is a non-affiliate.	Varchar(50)	Required if A1.21.3 is ''Y''. Validated against CO.2 or CP.2.
A1.21.5 ...	Third-party credit enhancement agreement identifier (for the benefit of the counterparty).	4444444	If QFC is covered by a guarantee or other third-party credit enhancement, provide an identifier for agreement.	Varchar(50)	Required if A1.21.3 is ''Y''. Validated against A3.3.
A1.22	Related position of records entity.	3333333	Use this field to link any related positions of the records entity. All positions that are related to one another should have same designation in this field.	Varchar(100).	
A1.23	Reference number for any related loan.	9999999	Provide a unique reference number for any loan held by the records entity or a member of its corporate group related to the position (with multiple entries delimited by commas).	Varchar(500).	
A1.24	Identifier of the lender of the related loan.	999999999	For any loan recorded in A1.23, provide identifier for records entity or member of its corporate group that holds any related loan. Use LEI if entity has one.	Varchar(500).	

TABLE A–2—COUNTERPARTY NETTING SET DATA

	Field	Example	Instructions and data application	Def	Validation
A2.1	As of date	2015–01–05	Data extraction date	YYYY–MM–DD	
A2.2	Records entity identifier	999999999	Provide the LEI for the records entity.	Varchar(50)	Validated against CO.2.
A2.3	Netting agreement counterparty identifier.	888888888	Provide an identifier for the netting agreement counterparty. Use LEI if counterparty has one.	Varchar(50)	Validated against CP.2.
A2.4	Netting agreement identifier	xxxxxxxxx	Provide an identifier for the netting agreement.	Varchar(50)	Validated against A3.3.
A2.4.1	Underlying QFC obligor identifier.	888888888	Provide identifier for underlying QFC obligor if netting agreement is associated with a guarantee or other third party credit enhancement. Use LEI if available.	Varchar(50)	Validated against CO.2 or CP.2.
A2.5	Covered by third-party credit enhancement agreement (for the benefit of the records entity)?	Y/N	Indicate whether the positions subject to the netting set agreement are covered by a third-party credit enhancement agreement.	Char(1)	Should be ''Y'' or ''N''.
A2.5.1	Third-party credit enhancement provider identifier (for the benefit of the records entity).	999999999	Use LEI if available. Information needed to identity third-party credit enhancement provider.	Varchar(50)	Required if A2.5 is ''Y''. Validated against CP.2.
A2.5.2	Third-party credit enhancement agreement identifier (for the benefit of the records entity).	4444444		Varchar(50)	Required if A2.5 is ''Y''. Validated against A3.3.
A2.5.3	Covered by third-party credit enhancement agreement (for the benefit of the counterparty)?	Y/N	Information needed to determine credit enhancement.	Char(1)	Should be ''Y'' or ''N''.
A2.5.4	Third-party credit enhancement provider identifier (for the benefit of the counterparty).	999999999	Use LEI if available. Information needed to identity third-party credit enhancement provider.	Varchar(50)	Required if A2.5.3 is ''Y''. Should be a valid entry in the Counterparty Master Table. Validated against CP.2.
A2.5.5	Third-party credit enhancement agreement identifier (for the benefit of the counterparty).	4444444	Information used to determine guarantee or other third-party credit enhancement.	Varchar(50)	Required if A2.5.3 is ''Y''. Validated against A3.3.
A2.6	Aggregate current market value in U.S. dollars of all positions under this netting agreement.	–1000000	Information needed to help evaluate the positions subject to the netting agreement.	Num (25,5)	Market value of all positions in A1 for the given netting agreement identifier should be equal to this value. A2.6 = A2.7 + A2.8.
A2.7	Current market value in U.S. dollars of all positive positions, as aggregated under this netting agreement.	3000000	Information needed to help evaluate the positions subject to the netting agreement.	Num (25,5)	Market value of all positive positions in A1 for the given netting agreement identifier should be equal to this value. A2.6 = A2.7 + A2.8.
A2.8	Current market value in U.S. dollars of all negative positions, as aggregated under this netting agreement.	–4000000	Information needed to help evaluate the positions subject to the netting agreement.	Num (25,5)	Market value of all negative positions in A1 for the given Netting Agreement Identifier should be equal to this value. A2.6 = A2.7 + A2.8.
A2.9	Current market value in U.S. dollars of all collateral posted by records entity, as aggregated under this netting agreement.	950000	Information needed to determine the extent to which collateral has been provided by records entity.	Num (25,5)	Market value of all collateral posted by records entity for the given netting agreement Identifier should be equal to sum of all A4.9 for the same netting agreement identifier in A4.

TABLE A–2—COUNTERPARTY NETTING SET DATA—Continued

	Field	Example	Instructions and data application	Def	Validation
A2.10	Current market value in U.S. dollars of all collateral posted by counterparty, as aggregated under this netting agreement.	50000	Information needed to determine the extent to which collateral has been provided by counterparty.	Num (25,5)	Market value of all collateral posted by counterparty for the given netting agreement identifier should be equal to sum of all A4.9 for the same netting agreement identifier in A4.
A2.11	Current market value in U.S. dollars of all collateral posted by records entity that is subject to re-hypothecation, as aggregated under this netting agreement.	950,000	Information needed to determine the extent to which collateral has been provided by records entity.	Num (25,5).	
A2.12	Current market value in U.S. dollars of all collateral posted by counterparty that is subject to re-hypothecation, as aggregated under this netting agreement.	950,000	Information needed to determine the extent to which collateral has been provided by records entity.	Num (25,5).	
A2.13	Records entity collateral—net	950,000	Provide records entity's collateral excess or deficiency with respect to all of its positions, as determined under each applicable agreement, including thresholds and haircuts where applicable.	Num (25,5)	Should be less than or equal to A2.9.
A2.14	Counterparty collateral—net	950,000	Provide counterparty's collateral excess or deficiency with respect to all of its positions, as determined under each applicable agreement, including thresholds and haircuts where applicable.	Num (25,5)	Should be less than or equal to A2.10.
A2.15	Next margin payment date	2015–11–05	Provide next margin payment date for position.	YYYY–MM–DD.	
A2.16	Next margin payment amount in U.S. dollars.	150,000	Use positive value if records entity is due a payment and use negative value if records entity has to make the payment.	Num (25,5).	
A2.17	Safekeeping agent identifier for records entity.	888888888	Provide an identifier for the records entity's safekeeping agent, if any. Use LEI if safekeeping agent has one.	Varchar(50)	Validated against SA.2.
A2.18	Safekeeping agent identifier for counterparty.	888888888	Provide an identifier for the counterparty's safekeeping agent, if any. Use LEI if safekeeping agent has one.	Varchar(50)	Validated against SA.2.

TABLE A–3—LEGAL AGREEMENTS

	Field	Example	Instructions and data application	Def	Validation
A3.1	As of Date	2015–01–05	Data extraction date	YYYY–MM–DD.	
A3.2	Records entity identifier	999999999	Provide LEI for records entity	Varchar(50)	Validated against CO.2.
A3.3	Agreement identifier	xxxxxx	Provide identifier for each master agreement, governing document, netting agreement or third-party credit enhancement agreement.	Varchar(50).	
A3.4	Name of agreement or governing document.	ISDA Master 1992 or Guarantee Agreement or Master Netting Agreement.	Provide name of agreement or governing document.	Varchar(50).	
A3.5	Agreement date	2010–01–25	Provide the date of the agreement.	YYYY–MM–DD.	

TABLE A–3—LEGAL AGREEMENTS—Continued

	Field	Example	Instructions and data application	Def	Validation
A3.6	Agreement counterparty identifier.	888888888	Use LEI if counterparty has one. Information needed to identify counterparty.	Varchar(50)	Validated against field CP.2.
A3.6.1	Underlying QFC obligor identifier.	888888888	Provide underlying QFC obligor identifier if document identifier is associated with a guarantee or other third party credit enhancement. Use LEI if underlying QFC obligor has one.	Varchar(50)	Validated against CO.2 or CP.2.
A3.7	Agreement governing law	New York	Provide law governing contract disputes.	Varchar(50).	
A3.8	Cross-default provision?	Y/N	Specify whether agreement includes default or other termination event provisions that reference an entity not a party to the agreement (“cross-default Entity”). Information needed to determine exposure to affiliates or other entities.	Char(1)	Should be “Y” or “N”.
A3.9	Identity of cross-default entities	777777777	Provide identity of any cross-default entities referenced in A3.8. Use LEI if entity has one. Information needed to determine exposure to other entities.	Varchar(500)	Required if A3.8 is “Y”. ID should be a valid entry in Corporate Org Master Table or Counterparty Master Table, if applicable. Multiple entries comma separated.
A3.10	Covered by third-party credit enhancement agreement (for the benefit of the records entity)?.	Y/N	Information needed to determine credit enhancement.	Char(1)	Should be “Y” or “N”.
A3.11	Third-party credit enhancement provider identifier (for the benefit of the records entity).	999999999	Use LEI if available. Information needed to identity Third-Party Credit Enhancement Provider.	Varchar(50)	Required if A3.10 is “Y”. Should be a valid entry in the Counterparty Master Table. Validated against CP.2.
A3.12	Associated third-party credit enhancement agreement document identifier (for the benefit of the records entity).	33333333	Information needed to determine credit enhancement.	Varchar(50)	Required if A3.10 is “Y”. Validated against field A3.3.
A3.12.1 ...	Covered by third-party credit enhancement agreement (for the benefit of the counterparty)?.	Y/N	Information needed to determine credit enhancement.	Char(1)	Should be “Y” or “N”.
A3.12.2 ...	Third-party credit enhancement provider identifier (for the benefit of the counterparty).	999999999	Use LEI if available. Information needed to identity Third-Party Credit Enhancement Provider.	Varchar(50)	Required if A3.12.1 is “Y”. Should be a valid entry in the Counterparty Master. Validated against CP.2.
A3.12.3 ...	Associated third-party credit enhancement agreement document identifier (for the benefit of the counterparty).	33333333	Information needed to determine credit enhancement.	Varchar(50)	Required if A3.12.1 is “Y”. Validated against field A3.3.
A3.13	Counterparty contact information: name.	John Doe & Co. ..	Provide contact name for counterparty as provided under notice section of agreement.	Varchar(200).	
A3.14	Counterparty contact information: address.	123 Main St, City, State Zip code.	Provide contact address for counterparty as provided under notice section of agreement.	Varchar(100).	
A3.15	Counterparty contact information: phone.	1–999–999–9999	Provide contact phone number for counterparty as provided under notice section of agreement.	Varchar(50).	

TABLE A–3—LEGAL AGREEMENTS—Continued

	Field	Example	Instructions and data application	Def	Validation
A3.16	Counterparty's contact information: email address.	*Jdoe@JohnDoe.com*.	Provide contact email address for counterparty as provided under notice section of agreement.	Varchar(100).	

TABLE A–4—COLLATERAL DETAIL DATA

	Field	Example	Instructions and data application	Def	Validation
A4.1	As of date	2015–01–05	Data extraction date	YYYY–MM–DD	
A4.2	Records entity identifier	999999999	Provide LEI for records entity ..	Varchar(50)	Validated against CO.2.
A4.3	Collateral posted/collateral received flag.	P/N	Enter ''P'' if collateral has been posted by the records entity. Enter ''R'' for collateral received by Records Entity.	Char(1).	
A4.4	Counterparty identifier	888888888	Provide identifier for counterparty. Use LEI if counterparty has one.	Varchar(50)	Validated against CP.2.
A4.5	Netting agreement identifier	xxxxxxxxx	Provide identifier for applicable netting agreement.	Varchar(50)	Validated against field A3.3.
A4.6	Unique collateral item identifier	CUSIP/ISIN	Provide identifier to reference individual collateral posted.	Varchar(50).	
A4.7	Original face amount of collateral item in local currency.	1500000	Information needed to evaluate collateral sufficiency and marketability.	Num (25,5).	
A4.8	Local currency of collateral item.	USD	Use ISO currency code	Char(3).	
A4.9	Market value amount of collateral item in U.S. dollars.	850000	Information needed to evaluate collateral sufficiency and marketability and to permit aggregation across currencies.	Num (25,5)	Market value of all collateral posted by Records Entity or Counterparty A2.9 or A2.10 for the given netting agreement identifier should be equal to sum of all A4.9 for the same netting agreement identifier in A4.
A4.10	Description of collateral item ...	U.S. Treasury Strip, maturity 2020/6/30.	Information needed to evaluate collateral sufficiency and marketability.	Varchar(200).	
A4.11	Asset classification	1	Provide fair value asset classification for the collateral item under GAAP, IFRS, or other accounting principles or standards used by records entity. Provide ''1'' for Level 1, ''2'' for Level 2, or ''3'' for Level 3.	Char(1)	Should be ''1'' or ''2'' or ''3''.
A4.12	Collateral or portfolio segregation status.	Y/N	Specify whether the specific item of collateral or the related collateral portfolio is segregated from assets of the safekeeping agent.	Char(1)	Should be ''Y'' or ''N''.
A4.13	Collateral location	ABC broker-dealer (in safekeeping account of counterparty).	Provide location of collateral posted.	Varchar(200).	
A4.14	Collateral jurisdiction	New York, New York.	Provide jurisdiction of location of collateral posted.	Varchar(50).	
A4.15	Is collateral re-hypothecation allowed?.	Y/N	Information needed to evaluate exposure of the records entity to the counterparty or vice-versa for re-hypothecated collateral.	Char(1)	Should be ''Y'' or ''N''.

CORPORATE ORGANIZATION MASTER TABLE *

	Field	Example	Instructions and data application	Def	Validation
CO.1	As of date	2015–01–05	Data extraction date	YYYY–MM–DD.	
CO.2	Entity identifier	888888888	Provide unique identifier. Use LEI if available. Information needed to identify entity.	Varchar(50)	Should be unique across all records entities.
CO.3	Has LEI been used for entity identifier?.	Y/N	Specify whether the entity identifier provided is an LEI.	Char(1)	Should be ''Y'' or ''N''.
CO.4	Legal name of entity	John Doe & Co	Provide legal name of entity	Varchar(200).	
CO.5	Immediate parent entity identifier.	77777777	Use LEI if available. Information needed to complete org structure.	Varchar(50).	
CO.6	Has LEI been used for immediate parent entity identifier?	Y/N	Specify whether the immediate parent entity identifier provided is an LEI.	Char(1)	Should be ''Y'' or ''N''.
CO.7	Legal name of immediate parent entity.	John Doe & Co	Information needed to complete org structure.	Varchar(200).	
CO.8	Percentage ownership of immediate parent entity in the entity.	100.00	Information needed to complete org structure.	Num (5,2).	
CO.9	Entity type	Subsidiary, foreign branch, foreign division.	Information needed to complete org structure.	Varchar(50).	
CO.10	Domicile	New York, New York.	Enter as city, state or city, foreign country.	Varchar(50).	
CO.11	Jurisdiction under which incorporated or organized.	New York	Enter as state or foreign jurisdiction.	Varchar(50).	

* Foreign branches and divisions shall be separately identified to the extent they are identified in an entity's reports to its appropriate Federal banking agency.

COUNTERPARTY MASTER TABLE

	Field	Example	Instructions and data application	Def	Validation
CP.1	As of date	2015–01–05	Data extraction date	YYYY–MM–DD.	
CP.2	Counterparty identifier	888888888	Use LEI if counterparty has one. Should be used consistently across all records entities within a corporate group. The counterparty identifier shall be the global legal entity identifier if one has been issued to the entity. If a counterparty transacts with the records entity through one or more separate foreign branches or divisions and any such branch or division does not have its own unique global legal entity identifier, the records entity must include additional identifiers, as appropriate to enable the FDIC to aggregate or disaggregate the data for each counterparty and for each entity with the same ultimate parent entity as the counterparty.	Varchar(50).	
CP.3	Has LEI been used for counterparty identifier?.	Y/N	Indicate whether the counterparty identifier is an LEI.	Char(1)	Should be ''Y'' or ''N''.
CP.4	Legal name of counterparty	John Doe & Co	Information needed to identify and, if necessary, communicate with counterparty.	Varchar(200).	
CP.5	Domicile	New York, New York.	Enter as city, state or city, foreign country.	Varchar(50).	
CP.6	Jurisdiction under which incorporated or organized.	New York	Enter as state or foreign jurisdiction.	Varchar(50).	

COUNTERPARTY MASTER TABLE—Continued

	Field	Example	Instructions and data application	Def	Validation
CP.7	Immediate parent entity identifier.	77777777	Provide an identifier for the parent entity that directly controls the counterparty. Use LEI if immediate parent entity has one.	Varchar(50).	
CP.8	Has LEI been used for immediate parent entity identifier?	Y/N	Indicate whether the immediate parent entity identifier is an LEI.	Char(1)	Should be "Y" or "N".
CP.9	Legal name of immediate parent entity.	John Doe & Co ...	Information needed to identify and, if necessary, communicate with counterparty.	Varchar(200).	
CP.10	Ultimate parent entity identifier	666666666	Provide an identifier for the parent entity that is a member of the corporate group of the counterparty that is not controlled by another entity. Information needed to identify counterparty. Use LEI if ultimate parent entity has one.	Varchar(50).	
CP.11	Has LEI been used for ultimate parent entity identifier?.	Y/N	Indicate whether the ultimate parent entity identifier is an LEI.	Char(1)	Should be "Y" or "N".
CP.12	Legal name of ultimate parent entity.	John Doe & Co. ..	Information needed to identify and, if necessary, communicate with Counterparty.	Varchar(100).	

BOOKING LOCATION MASTER TABLE

	Field	Example	Instructions and data application	Def	Validation
BL.1 ..	As of date	2015–01–05	Data extraction date	YYYY–MM–DD.	
BL.2 ..	Records entity identifier	999999999	Provide LEI	Varchar(50)	Should be a valid entry in the Corporate Org Master Table.
BL.3 ..	Internal booking location identifier.	New York, New York.	Provide office where the position is booked. Information needed to determine the headquarters or branch where the position is booked, including the system on which the trade is booked, as well as the system on which the trade is settled.	Varchar(50).	
BL.4 ..	Unique booking unit or desk identifier.	xxxxxx	Provide unit or desk at which the position is booked. Information needed to help determine purpose of position.	Varchar(50).	
BL.5 ..	Unique booking unit or desk description.	North American trading desk.	Additional information to help determine purpose of position.	Varchar(50).	
BL.6 ..	Booking unit or desk contact—phone.	1–999–999–9999	Information needed to communicate with the booking unit or desk.	Varchar(50).	
BL.7 ..	Booking unit or desk contact—email.	*Desk@Desk.com*	Information needed to communicate with the booking unit or desk.	Varchar(100).	

SAFEKEEPING AGENT MASTER TABLE

	Field	Example	Instructions and data application	Def	Validation
SA.1	As of date	2015–01–05	Data extraction date	YYYY–MM–DD.	
SA.2	Safekeeping agent identifier	888888888	Provide an identifier for the safekeeping agent. Use LEI if safekeeping agent has one.	Varchar(50).	

SAFEKEEPING AGENT MASTER TABLE—Continued

	Field	Example	Instructions and data application	Def	Validation
SA.3	Legal name of safekeeping agent.	John Doe & Co ...	Information needed to identify and, if necessary, communicate with the safekeeping agent.	Varchar(200).	
SA.4	Point of contact—name	John Doe	Information needed to identify and, if necessary, communicate with the safekeeping agent.	Varchar(200).	
SA.5	Point of contact—address	123 Main St, City, State Zip Code.	Information needed to identify and, if necessary, communicate with the safekeeping agent.	Varchar(100).	
SA.6	Point of contact—phone	1–999–999–9999	Information needed to identify and, if necessary, communicate with the safekeeping agent.	Varchar(50).	
SA.7	Point of contact—email	*Jdoe@JohnDoe.com*.	Information needed to identify and, if necessary, communicate with the safekeeping agent.	Varchar(100).	

DETAILS OF FORMATS

Format	Content in brief	Additional explanation	Examples
YYYY–MM–DD	Date	YYYY = four digit date, MM = 2 digit month, DD = 2 digit date	2015–11–12
Num (25,5)	Up to 25 numerical characters including 5 decimals.	Up to 20 numerical characters before the decimal point and up to 5 numerical characters after the decimal point. The dot character is used to separate decimals.	1352.67 12345678901234567890.12345 0 −20000.25 −0.257
Char(3)	3 alphanumeric characters.	The length is fixed at 3 alphanumeric characters.	USD X1X 999
Varchar(25)	Up to 25 alphanumeric characters.	The length is not fixed but limited at up to 25 alphanumeric characters.	asgaGEH3268EFdsagtTRCF543

Dated at Washington, DC, this 18th day of July 2017.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–15488 Filed 7–28–17; 8:45 am]

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FEDERAL REGISTER

Vol. 82 Monday,
No. 145 July 31, 2017

Part III

The President

Notice of July 28, 2017—Continuation of the National Emergency With Respect to Lebanon

Federal Register
Vol. 82, No. 145
Monday, July 31, 2017

Presidential Documents

Title 3—

The President

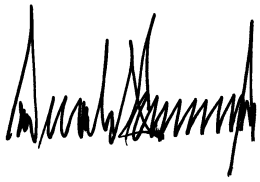
Notice of July 28, 2017

Continuation of the National Emergency With Respect to Lebanon

On August 1, 2007, in Executive Order 13441, the President declared a national emergency with respect to Lebanon pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the actions of certain persons to undermine Lebanon's legitimate and democratically elected government and democratic institutions; contribute to the deliberate breakdown in the rule of law in Lebanon, including through politically motivated violence and intimidation; reassert Syrian control or contribute to Syrian interference in Lebanon; or infringe upon or undermine Lebanese sovereignty. These actions contribute to political and economic instability in Lebanon and the region.

Certain ongoing activities, such as continuing arms transfers to Hizballah that include increasingly sophisticated weapons systems, serve to undermine Lebanese sovereignty, contribute to political and economic instability in Lebanon, and continue to constitute an unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, the national emergency declared on August 1, 2007, and the measures adopted on that date to deal with that emergency, must continue in effect beyond August 1, 2017. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to Lebanon declared in Executive Order 13441.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
July 28, 2017.

[FR Doc. 2017–16263
Filed 7–28–17; 2:00 pm]
Billing code 3295–F7–P

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