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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS–2014–0092]

RIN 0579–AE17

Importation of Lemons From Northwest Argentina; Stay of Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; stay of regulations.

SUMMARY: On December 23, 2016, we published a final rule amending the fruits and vegetables regulations to allow the importation of lemons from northwest Argentina into the continental United States under certain conditions. In this document, we are issuing a stay of those regulations for 60 days.

DATES: Effective January 25, 2017, 7 CFR 319.28(e) and 319.56–76 are stayed until March 27, 2017.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen O'Neill, Chief, Regulatory Analysis and Development, PPD, APHIS, 4700 River Road Unit 118, Riverdale, MD 20737–1234; (301) 851–3175.

SUPPLEMENTARY INFORMATION: On December 23, 2016, we published a final rule (81 FR 94217–94230) amending the fruits and vegetables regulations to allow the importation of lemons from northwest Argentina into the continental United States under certain conditions. In this document, we are issuing a stay of those regulations for 60 days in accordance with guidance issued January 20, 2017, intended to provide the new Administration an adequate opportunity to review new and pending regulations.

Authority: 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 23rd day of January 2017.

Michael C. Gregoire,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2017–01773 Filed 1–24–17; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

8 CFR Part 235

[DHS Docket No. DHS–2017–0003]

RIN 1601–AA81

Eliminating Exception to Expedited Removal Authority for Cuban Nationals Arriving by Air

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Final rule; request for comments; correction.

SUMMARY: The Department of Homeland Security (DHS) published a rule in the **Federal Register** of January 17, 2017, eliminating an exception to expedited removal authority for Cuban nationals arriving by air. The rule contained incorrect contact information under two captions. This correction fixes the errors.

DATES: Effective on January 25, 2017.

FOR FURTHER INFORMATION CONTACT: David Cloe, DHS Office of Policy, 202–447–4647, *David.Cloe@HQ.DHS.GOV.*

SUPPLEMENTARY INFORMATION: In FR Doc. 2017–00915, appearing on page 4769 in the **Federal Register** of Tuesday, January 17, 2017, the following corrections are made:

1. At the bottom of the first column and the top of the second column, correct the ''Mail or Hand Delivery/Courier'' bullet to read:

Mail or Hand Delivery/Courier: Please submit all written comments (including and CD–ROM submissions) to David Cloe, DHS Office of Policy, 245 Murray Lane SW., Mail Stop 0445, Washington, DC 20528.

2. In the second column, correct the **FOR FURTHER INFORMATION CONTACT** caption to read:

David Cloe, DHS Office of Policy, 202–447–4647, *David.Cloe@HQ.DHS.GOV.*

Signed at Washington, DC, this 18th of January, 2017.

David Shahoulian,

Deputy General Counsel.

[FR Doc. 2017–01665 Filed 1–24–17; 8:45 am]

BILLING CODE 9110–9M–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2016–0200]

RIN 3150–AJ86

List of Approved Spent Fuel Storage Casks: AREVA Inc., Standardized NUHOMS® Cask System, Certificate of Compliance No. 1004, Amendment No. 14, and Revision 1 of the Initial Certificate, Amendment Nos. 1 Through 11, and Amendment No. 13

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its spent fuel storage regulations by revising the AREVA Inc. (AREVA), Standardized NUHOMS® Cask System listing within the ''List of approved spent fuel storage casks'' to add Amendment No. 14, and Revision 1 to the Initial Certificate, Amendment Nos. 1 through 11, and Amendment No. 13 to Certificate of Compliance (CoC) No. 1004. Amendment No. 14 will revise multiple items in the technical specifications (TSs) for dry shielded canister (DSC) models listed under CoC No. 1004; most of these revisions involve changes to the authorized contents. The revisions to the Initial Certificate, Amendment Nos. 1 through 11, and Amendment No. 13 will remove language in the TSs that requires a transfer cask (TC) containing a DSC to be returned to the spent fuel pool following a drop of over 15 inches.

DATES: The direct final rule is effective April 25, 2017, unless significant adverse comments are received by February 24, 2017. If the direct final rule is withdrawn as a result of such comments, timely notice of the withdrawal will be published in the

Federal Register. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date. Comments received on this direct final rule will also be considered to be comments on a companion proposed rule published in the Proposed Rules section of this issue of the **Federal Register**.

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

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0200. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to: Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301–415–1677.

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

FOR FURTHER INFORMATION CONTACT: Edward Lohr, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–0253; email: *Edward.Lohr@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2016–0200 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–2016–0200.
- *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.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2016–0200 in your comment submission.

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

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

II. Rulemaking Procedure

This rule is limited to the changes contained in Amendment No. 14 and the revisions to the Initial Certificate, Amendment Nos. 1 through 11, and Amendment No. 13 to CoC No. 1004 and does not include other aspects of the AREVA Standardized NUHOMS® Cask System design. The NRC is using the ''direct final rule procedure'' to issue the amendment and revisions because they represent limited and routine changes to an existing CoC that are expected to be noncontroversial. Adequate protection of public health and safety continues to be ensured. The amendment and revisions to the rule will become effective on April 25, 2017. This direct final rule has an effective date of 90 days from publication in lieu of the historical 75 days because it has two rulemaking actions that have to be coordinated after the public comment period is closed and before the final rule takes effect. However, if the NRC receives significant adverse comments on this direct final rule by February 24, 2017, then the NRC will publish a document that withdraws this action and will subsequently address the comments received in a final rule as a response to the companion proposed rule published in the Proposed Rules section of this issue of the **Federal Register**. Absent significant modifications to the proposed amendment and revisions requiring republication, the NRC will not initiate a second comment period on this action.

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

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

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

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

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

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

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

For detailed instructions on filing comments, please see the companion proposed rule published in the

Proposed Rules section of this issue of the **Federal Register.**

III. Background

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

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule which added a new subpart K in part 72 of title 10 of the *Code of Federal Regulations* (10 CFR) entitled, ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). This rule also established a new subpart L in 10 CFR part 72 entitled, ''Approval of Spent Fuel Storage Casks,'' which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. On December 22, 1994, the NRC issued a final rule approving the AREVA Standardized NUHOMS® Cask System design (59 FR 65898) and CoC No. 1004 was added to the list of NRC-approved cask designs in 10 CFR 72.214.

IV. Discussion of Changes

On November 4, 2014, AREVA submitted an application for renewal of the Standardized NUHOMS® storage system, which is currently under review by the NRC staff. Because AREVA's renewal application was submitted more than 30 days in advance of the certificate's expiration date of January 23, 2015, and the NRC staff has yet to make a final determination on the renewal application, pursuant to the regulation in 10 CFR 72.240(b), the existing certificates have not expired.

By letter dated April 16, 2015, as supplemented on November 11, 2015, and March 14, 2016, AREVA submitted a request to the NRC to amend CoC No. 1004 by adding Amendment No. 14. Also, by letter dated August 24, 2015, as supplemented on February 9, 2016, AREVA submitted a request to the NRC to add Revision 1 of the Initial Certificate, Amendment Nos. 1 through 11, and Amendment No. 13 to CoC No. 1004. These two requests are included in this rulemaking.

As documented in the Preliminary Safety Evaluation Report for AREVA Amendment No. 14 to CoC No. 1004 and Preliminary Safety Evaluation Report (PSER) for AREVA Revisions of Initial Certificate, Amendment Nos. 1 through 11, and Amendment No. 13 to CoC No. 1004 and described in this section, the NRC staff performed a detailed safety evaluation of the proposed CoC amendment and revisions. This direct final rule revises the AREVA Standardized NUHOMS® Cask System listing in 10 CFR 72.214 by adding Amendment No. 14 and Revision 1 of the Initial Certificate, Amendment Nos. 1 through 11, and Amendment No. 13 to CoC No. 1004. The term ''Amendment 0'' used in the supporting documents for this direct final rulemaking and the term ''Initial Certificate'' used in 10 CFR 72.214 describes the same document. Initial Certificate is the correct term and will be used henceforth when discussion involves this document. The revised TSs are identified in the PSERs.

Changes to the CoC No. 1004 and TSs Under Amendment No. 14

Amendment No. 14 to CoC No. 1004 includes the following provisions:

- Improvements to the fuel qualification tables for the boiling water reactor (BWR) and pressurized water reactor DSCs to allow for the calculation of cooling times for different uranium loading;
- Inclusion of new heat load zoning configurations for the 61BTH, 32PTH1 and 69BTH DSCs;
- Authorization of storage of up to 61 damaged BWR fuel assemblies in the 61BTH DSC;
- Authorization of storage of up to 16 failed fuel cans in the 32PTH1 DSC;
- Expansion of the 37PTH criticality analysis to include poison rod assemblies;
- Evaluation of the horizontal storage module (HSM) model HSM–H for shielding impact of reduced density concrete and gaps during installation;
- Clarification and revision of various terms and definitions in the TSs;
- Authorization of acceptance testing for neutron absorber content to be performed by either neutron transmission or by B–10 volume density measurement;
- Removal of language in the TSs that required a TC containing a DSC be returned to the spent fuel pool following a drop of over 15 inches, and instead permit the general licensee to determine the best available option for inspection of the TC/DSC by either returning it to the spent fuel pool or an alternate means;
- Revision of the minimum soluble boron concentration of 2800 ppm for Type A2 poison for Westinghouse 17x17 fuel design only;
- Update the existing Fuel Qualification Table for the 32PTH1 DSC with a heat load of 1.2 kW/FA; and
- Allowance for an alternative loading configuration of 16 damaged fuel assemblies in the 32PTH1 DSC.

These changes do not result in any changes to the design of the major components of the Standardized NUHOMS® Cask System. Most of the changes are related to the authorized contents. Similar changes have been reviewed and approved by the NRC for CoC No. 1030 for the NUHOMS® HD System.

Changes to the CoC and TSs Under Revision 1 of the Initial Certificate, Amendment Nos. 1 Through 11, and Amendment No. 13

Revisions to the Initial Certificate, Amendment Nos. 1 through 11, and Amendment No. 13 of the CoC No. 1004 include:

- Removal of language in the TSs that required a TC containing a DSC be returned to the spent fuel pool following a drop of over 15 inches, and instead permit the general licensee to determine the best available option for inspection of the TC/DSC by either returning it to the spent fuel pool or an alternate means; and
- Clarifying language in the TSs that requires a transfer cask be returned to the spent fuel pool.

As documented in the PSERs, the NRC staff performed a detailed safety evaluation of the proposed CoC amendment and revisions. There are no significant changes to cask design requirements in the CoC amendment or revisions. The staff evaluated the specific design requirements for each accident condition and finds that the design of the cask will prevent loss of containment, shielding, and criticality control. Therefore, the environmental impacts of these actions would be insignificant. This amendment and revisions to existing amendments do not reflect significant changes in design or fabrication of the cask. In addition, any resulting occupational exposure or offsite dose rates from the implementation of Amendment No. 14

and Revision 1 of the Initial Certificate, Amendment Nos. 1 through 11, and Amendment No. 13 will remain well within the 10 CFR part 20 limits. Therefore, the CoC changes will not result in radiological or non-radiological environmental impacts that differ significantly from the environmental impacts evaluated in the environmental assessment supporting the December 22, 1994, final rule. There will be no significant change in the types or significant revisions in the amounts of any effluent released, no significant increase in the individual or cumulative radiation exposure, and no significant increase in the potential for consequences from radiological accidents.

This direct final rule revises the AREVA Standardized NUHOMS® Cask System listing in 10 CFR 72.214 by adding Amendment No. 14 and Revision 1 of the Initial Certificate, Amendment Nos. 1 through 11, and Amendment No. 13 to CoC No. 1004. The changes, when used under the conditions specified in the CoC, the TSs, and the NRC's regulations, will meet the requirements of 10 CFR part 72. Therefore, adequate protection of public health and safety will continue to be ensured. When this direct final rule becomes effective, persons who hold a general license under 10 CFR 72.210 may load spent nuclear fuel into AREVA Standardized NUHOMS® Cask Systems that meet the criteria of Amendment No. 14 to CoC No. 1004 under 10 CFR 72.212. Persons who hold a general license under 10 CFR 72.210 have 180 days after the effective date of Revision 1 of the Initial Certificate, Amendment Nos. 1 through 11, and Amendment No. 13 to perform a 10 CFR 72.212 evaluation and to implement the changes authorized by the revisions.

V. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies, unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, the NRC will revise the AREVA Standardized NUHOMS® Cask System design listed in 10 CFR 72.214, ''List of approved spent fuel storage casks.'' This action does not constitute the establishment of a standard that contains generally applicable requirements.

VI. Agreement State Compatibility

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

VII. Plain Writing

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

VIII. Environmental Assessment and Finding of No Significant Environmental Impact

A. The Action

The action is to amend 10 CFR 72.214 to revise the AREVA Standardized NUHOMS® Cask System listing within the ''List of approved spent fuel storage casks'' to add Amendment No. 14 and Revision 1 of the Initial Certificate, Amendment Nos. 1 through 11, and Amendment No. 13 to CoC No. 1004. Under the National Environmental Policy Act of 1969, as amended, and the NRC's regulations in subpart A of 10 CFR part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions,'' the NRC has determined that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The NRC has made a finding of no significant impact on the basis of this environmental assessment.

B. The Need for the Action

This direct final rule amends CoC No. 1004 for the AREVA Standardized NUHOMS® Cask System design within the list of approved spent fuel storage casks that power reactor licensees can use to store spent fuel at reactor sites under a general license. Specifically, Amendment No. 14 revises TSs to allow for additional authorized contents be stored in the cask. Similar changes were previously reviewed and approved by the NRC for CoC No. 1030 for the NUHOMS® HD System. Revision 1 of the Initial Certificate, Amendment Nos. 1 through 11, and Amendment No. 13 of CoC No. 1004 clarifies language in the TSs that requires a transfer cask be returned to the spent fuel pool, by permitting the general licensee to determine the best available option for inspection of the TC/DSC by either returning it to the spent fuel pool or inspection by alternate means.

C. Environmental Impacts of the Action

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent fuel under a general license in cask designs approved by the NRC. The potential environmental impact of using NRC-approved storage casks was initially analyzed in the environmental assessment for the 1990 final rule. The environmental assessment for Amendment No. 14 and Revision 1 of the Initial Certificate, Amendment Nos. 1 through 11, and Amendment No. 13 tiers off of the environmental assessment for the July 18, 1990, final rule. Tiering on past environmental assessments is a standard process under the National Environmental Policy Act.

The AREVA Standardized NUHOMS® Cask System is designed to mitigate the effects of design basis accidents that could occur during storage. Design basis accidents account for human-induced events and the most severe natural phenomena reported for the site and surrounding area. Postulated accidents analyzed for an Independent Spent Fuel Storage Installation (ISFSI), the type of facility at which a holder of a power reactor operating license would store spent fuel in casks in accordance with 10 CFR part 72, include tornado winds and tornado-generated missiles, a design basis earthquake, a design basis flood, an accidental cask drop, lightning effects, fire, explosions, and other incidents.

Considering the specific design requirements for each accident condition, the design of the cask would prevent loss of confinement, shielding, and criticality control. If there is no loss of confinement, shielding, or criticality control, the environmental impacts would be insignificant. The amendment and revisions to existing amendments do not reflect a significant change in

design or fabrication of the cask. There are no significant changes to cask design requirements in the proposed CoC amendment and revisions to exiting amendments. In addition, because there are no significant design or process changes, any resulting occupational exposure or offsite dose rates from the implementation of Amendment No. 14 and Revision 1 of the Initial Certificate, Amendment Nos. 1 through 11, and Amendment No. 13 would remain well within the 10 CFR part 20 limits. Therefore, the proposed CoC changes will not result in any radiological or non-radiological environmental impacts that significantly differ from the environmental impacts evaluated in the environmental assessment supporting the July 18, 1990, final rule. There will be no significant change in the types or significant revisions in the amounts of any effluent released, no significant increase in the individual or cumulative radiation exposure, and no significant increase in the potential for or consequences from radiological accidents. The staff documented its safety findings in the PSERs.

D. Alternative to the Action

The alternative to this action is to deny approval of Amendment No. 14 and Revision 1 of the Initial Certificate, Amendment Nos. 1 through 11, and Amendment No. 13, and end the direct final rule. Consequently, any 10 CFR part 72 general licensee that seeks to load spent nuclear fuel into the AREVA Standardized NUHOMS® Cask System in accordance with the changes described in Amendment No. 14 and Revision 1 of the Initial Certificate, Amendment Nos. 1 through 11, and Amendment No. 13 would have to request an exemption from the requirements of 10 CFR 72.212 and 72.214. Under this alternative, an interested licensee would have to prepare, and the NRC would have to review, a separate exemption request, thereby increasing the administrative burden upon the NRC and the costs to each licensee. Therefore, the environmental impacts would be the same or less than the action.

E. Alternative Use of Resources

Approval of Amendment No. 14 and Revision 1 of the Initial Certificate, Amendment Nos. 1 through 11, and Amendment No. 13 to CoC No. 1004 would result in no irreversible commitments of resources.

F. Agencies and Persons Contacted

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

G. Finding of No Significant Impact

The environmental impacts of the action have been reviewed under the requirements in 10 CFR part 51. Based on the foregoing environmental assessment, the NRC concludes that this direct final rule entitled, ''List of Approved Spent Fuel Storage Casks: AREVA Inc., Standardized NUHOMS® Cask System, Certificate of Compliance No. 1004, Amendment No. 14, and Revision 1 of the Initial Certificate, Amendment Nos. 1 through 11, and Amendment No. 13,'' will not have a significant effect on the human environment. Therefore, the NRC has determined that an environmental impact statement is not necessary for this direct final rule.

IX. Paperwork Reduction Act Statement

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

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

X. Regulatory Flexibility Certification

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this rule will not, if issued, have a significant economic impact on a substantial number of small entities. This direct final rule affects only nuclear power plant licensees and AREVA. These entities do not fall within the scope of the definition of small entities set forth in the Regulatory Flexibility Act or the size standards established by the NRC (10 CFR 2.810).

XI. Regulatory Analysis

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent nuclear fuel under a general license in cask designs approved by the NRC. Any nuclear power reactor licensee can use NRC-approved cask designs to store spent nuclear fuel if it notifies the NRC in advance, the spent fuel is stored under the conditions specified in the cask's CoC, and the conditions of the general license are met. A list of NRC-approved cask designs is contained in 10 CFR 72.214. On December 22, 1994 (59 FR 65898), the NRC issued an amendment to 10 CFR part 72 that approved the AREVA Standardized NUHOMS® Cask System design by adding it to the list of NRC-approved cask designs in 10 CFR 72.214.

By letter dated April 16, 2015, as supplemented on November 11, 2015, and March 14, 2016, AREVA submitted a request to the NRC to amend CoC No. 1004 by adding Amendment No. 14. Also, by letter dated August 24, 2015, as supplemented on February 9, 2016, AREVA submitted a request to the NRC to amend CoC No. 1004 by adding Revision 1 of the Initial Certificate, Amendment Nos. 1 through 11, and Amendment No. 13. These requests are described in Section IV, ''Discussion of Changes,'' of this document.

The alternative to this action is to withhold approval of Amendment No. 14 and Revision 1 of the Initial Certificate, Amendment Nos. 1 through 11, and Amendment No. 13. Withholding approval of these actions would require any 10 CFR part 72 general licensee seeking to load spent nuclear fuel into the AREVA Standardized NUHOMS® Cask System under the changes described in Amendment No. 14 and Revision 1 of the Initial Certificate, Amendment Nos. 1 through 11, and Amendment No. 13 to request an exemption from the requirements of 10 CFR 72.212 and 72.214. Under this alternative, each interested 10 CFR part 72 licensee would be required to prepare a separate exemption request and the NRC would need to review separate exemption requests, which would increase the administrative burden on the NRC and the costs to each licensee.

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

XII. Backfitting and Issue Finality

Changes to CoC No. 1004 and TSs Under Amendment No. 14

The NRC has determined that the backfit rule (10 CFR 72.62) does not apply to this direct final rule and therefore, a backfit analysis is not required. First, this direct final rule revises CoC No. 1004 for the AREVA Standardized NUHOMS® Cask System, as currently listed in 10 CFR 72.214, ''List of approved spent fuel storage casks.'' Amendment No. 14 revises multiple items in the TSs for the DSC models listed under CoC No. 1004; these include changes to the load zoning configurations for spent fuel assemblies, improvements to the spent fuel qualification tables for select DSCs, authorizing changes in the spent fuel parameters for storage, and evaluating the shielding impacts of gaps in the HSMs, among others. Amendment No. 14 to CoC No. 1004 for the AREVA Standardized NUHOMS® Cask System was initiated by AREVA. It was not submitted in response to the imposition of new NRC requirements or an NRC request for an amendment. Amendment No. 14 applies only to new casks that are fabricated and used under Amendment No. 14. The proposed changes to the CoC and the TSs will not affect existing users of the AREVA Standardized NUHOMS® Cask System. While current CoC users may comply with the new requirements in Amendment No. 14, this would be a voluntary decision on the part of current users. For these reasons, Amendment No. 14 to CoC No. 1004 does not constitute backfitting under 10 CFR 72.62 or 10 CFR 50.109(a)(1).

The current holders of combined licenses issued under 10 CFR part 52, which also by law have general ISFSI licenses under 10 CFR part 72, do not use the Standardized NUHOMS® Cask System, and therefore are unaffected by Amendment No. 14. Therefore, this rulemaking does not involve any issue finality considerations for those licensees. Amendment No. 14 does not affect entities with regulatory approvals issued under 10 CFR part 52. Therefore, the portion of this rulemaking concerning Amendment No. 14 does not involve any other issue finality concerns.

Changes to the CoC No. 1004 and TSs Under Revision 1 of the Initial Certificate, Amendment Nos. 1 Through 11, and Amendment No. 13

AREVA requested Revision 1 of the Initial Certificate, Amendment Nos. 1 through 11, and Amendment No. 13 for CoC No. 1004 for the Standardized NUHOMS® Cask System, as currently listed in 10 CFR 72.214, ''List of Approved Spent Fuel Storage Casks.'' The revisions to the Initial Certificate, Amendment Nos. 1 through 11, and Amendment No. 13 will remove language in TS 1.2.10 that requires a TC containing a DSC be returned to the spent fuel pool following a drop of over 15 inches. The revised TS.1.210 will permit the general licensee to determine the best available option for inspection of the TC/DSC by either returning it to the spent fuel pool or an alternate means. The general licensee will inspect and evaluate the DSC/TC for damage before further use. This inspection requirement provides the option to inspect the DSC in a spent fuel pool or another proper location.

Revision 1 of the Initial Certificate, Amendment Nos. 1 through 11, and Amendment No. 13 to CoC No. 1004 provides a voluntary alternative to the current requirement that a loaded DSC must be returned to the spent fuel pool following a drop exceeding 15 inches. Although the TSs for AREVA casks manufactured under existing CoC No. 1004 are being revised by this final rule, the staff finds the backfitting rule does not apply to AREVA's request because AREVA is the cask system vendor and the backfitting rule at 10 CFR 72.62 applies to general licensees.

AREVA, however, requested that the changes in Revision 1 be applied to the existing casks manufactured under the Initial Certificate, Amendment Nos. 1 through 11, and Amendment No. 13. For this reason, the NRC staff considered what effect revising the CoCs and TSs will have on general licensees currently using the casks and whether the changes constitute backfitting or a violation of issue finality under 10 CFR part 52. AREVA provided casks to general licensees at numerous reactor facilities under the Initial Certificate, Amendment Nos. 1 through 11, and Amendment No. 13 to CoC No. 1004. Under 10 CFR 72.62, general licensees are entities that are protected from backfitting, absent the NRC staff's determination that the protection of occupational or public health and safety warrants the backfit. General licensees are required by 10 CFR 72.212(b)(3), to ensure that each cask conforms to the terms, conditions, and specifications of a CoC, and that each cask is safely used at its site.

The general licensees affected by the revisions to CoC No. 1004 voluntarily committed in writing to implement the revised TS changes at their ISFSIs. The revised TSs provide that in the event a DSC is dropped from greater than 15 inches, the general licensee may choose to return it to the spent fuel pool for inspection, or in the alternative, inspect the canister by other means. In either case, the revised TS 1.2.10 requires inspection and evaluation of the DSC and TC for damage before further use.

The new TSs specifically provide a general licensee with an alternative to the current requirement. The option to use a new voluntary alternative method does not constitute a required change under the backfit rule and therefore does not constitute backfitting under 10 CFR 72.62. For these reasons discussed, no backfit analysis has been prepared by the NRC staff. The two current holders of combined licenses, who also hold a general ISFSI license under 10 CFR part 72, do not use the Standardized NUHOMS® Cask System. Accordingly, there are no issue finality considerations with respect to Revision 1 to the Initial Certificate, Amendment Nos. 1 through 11, and Amendment No. 13. Revision 1 does not affect entities with regulatory approvals issued under 10 CFR part 52. Therefore, the portion of this rulemaking concerning Revision 1 does not involve any other issue finality concerns.

In order to provide the general licensees adequate time to evaluate and implement modifications to the Standardized NUHOMS® Cask System required by the revised CoC, a new condition is added to CoC No. 1004. The condition provides general licensees 180 days from the effective date of Revision 1 of the Initial Certificate, Amendment Nos. 1 through 11, and Amendment No. 13 to CoC No. 1004 to implement the changes authorized by the revision. The new condition also provides general licensees 180 days to perform the evaluation required by 10 CFR 72.212(b)(5)(i–iii).

XIII. Congressional Review Act

The Office of Management and Budget has not found this to be a rule as defined in the Congressional Review Act.

XIV. Availability of Documents

The documents identified in the following table are available to interested persons as indicated.

Document	ADAMS accession number
AREVA Application for Renewal of Standardized NUHOMS® Storage System, letter dated November 4, 2014	ML14309A341 (Package).
AREVA Request to Add Amendment No. 14 to CoC No. 1004, letter dated April 16, 2015	ML15114A056.
Summary of June 10, 2015, Public Meeting with AREVA to Discuss Amendment No. 14 to CoC No. 1004	ML15176A344 (Package).
NRC Request for Additional Information Related to AREVA Amendment No. 14 to CoC No. 1004, letter dated August 31, 2015.	ML15245A064.
AREVA Response to NRC Request for Additional Information Related to Amendment No. 14 to CoC No. 1004, letter dated November 11, 2015.	ML15331A355 (Package).
NRC Request for Additional Information Related to AREVA Amendment No. 14 to CoC No. 1004, letter dated February 17, 2016.	ML16049A559.
AREVA Response to NRC Request for Additional Information Related to Amendment No. 14 to CoC No. 1004, letter dated March 14, 2016.	ML16076A231.
AREVA Amendment No. 14 to CoC No. 1004	ML16246A173.
Technical Specifications for AREVA Amendment No. 14 to CoC No. 1004	ML16246A170.
Preliminary Safety Evaluation Report for AREVA Amendment No. 14 to CoC No. 1004	ML16246A169.
Final Safety Evaluation Report for CoC No. 1030	ML14288A485.
AREVA Requested Revisions of Amendment Nos. 0–11, and Amendment No. 13 to CoC No. 1004, letter dated August 24, 2015*.	ML15239A718 (Package).
NRC Request for Additional Information Related to AREVA Revisions of Amendment Nos. 0–11, and Amendment No. 13 to CoC No. 1004, letter dated January 19, 2016*.	ML16019A301 (Package).
AREVA Response to NRC Request for Additional Information Related to Revisions of Amendment Nos. 0–11, and Amendment No. 13 to CoC No. 1004, letter dated February 9, 2016*.	ML16054A214 (Package).
AREVA Revisions of Amendment Nos. 0–11, and Amendment No. 13 to CoC No. 1004 (including technical specifications)*.	ML16183A005 (Package).
Supporting Documentation Related to Backfit from General Licensees Associated with AREVA Request to Revise Amendment Nos. 0–11, and Amendment No. 13 to CoC No. 1004*.	ML16054A226 (Package).
Preliminary Safety Evaluation Report for AREVA Revisions of Amendment Nos. 0–11, and Amendment No. 13 to CoC No. 1004*.	ML16183A022.

*The term ''Amendment 0'' used in the supporting documents for this direct final rulemaking and the term ''Initial Certificate'' used in 10 CFR 72.214 describes the same document. Initial Certificate is the correct term and will be used henceforth when discussion involves this document.

The NRC may post materials related to this document, including public comments, on the Federal Rulemaking Web site at *http://www.regulations.gov* under Docket ID NRC–2016–0200. The Federal Rulemaking Web site allows you to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) Navigate to the docket folder (NRC–2016–0200); (2) click the ''Sign up for Email Alerts'' link; and (3) enter your email address and select how frequently you would like to receive emails (daily, weekly, or monthly).

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Hazardous waste, Indians, Intergovernmental relations, Manpower training programs, Nuclear energy, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

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

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

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

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

■ 2. In § 72.214, Certificate of Compliance 1004 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1004.

Initial Certificate Effective Date: January 23, 1995, superseded by Initial Certificate, Revision 1, on April 25, 2017.

Initial Certificate, Revision 1, Effective Date: April 25, 2017.

Amendment Number 1 Effective Date: April 27, 2000, superseded by Amendment Number 1, Revision 1 on April 25, 2017.

Amendment Number 1, Revision 1, Effective Date: April 25, 2017.

Amendment Number 2 Effective Date: September 5, 2000, superseded by Amendment Number 2, Revision 1 on April 25, 2017.

Amendment Number 2, Revision 1, Effective Date: April 25, 2017.

Amendment Number 3 Effective Date: September 12, 2001, superseded by Amendment Number 3, Revision 1 on April 25, 2017.

Amendment Number 3, Revision 1, Effective Date: April 25, 2017.

Amendment Number 4 Effective Date: February 12, 2002, superseded by Amendment Number 4, Revision 1 on April 25, 2017.

Amendment Number 4, Revision 1, Effective Date: April 25, 2017.

Amendment Number 5 Effective Date: January 7, 2004, superseded by Amendment Number 5, Revision 1 on April 25, 2017.

Amendment Number 5, Revision 1, Effective Date: April 25, 2017.

Amendment Number 6 Effective Date: December 22, 2003, superseded by Amendment Number 6, Revision 1 on April 25, 2017.

Amendment Number 6, Revision 1, Effective Date: April 25, 2017.

Amendment Number 7 Effective Date: March 2, 2004, superseded by

Amendment Number 7, Revision 1 on April 25, 2017.

Amendment Number 7, Revision 1, Effective Date: April 25, 2017.

Amendment Number 8 Effective Date: December 5, 2005, superseded by Amendment Number 8, Revision 1 on April 25, 2017.

Amendment Number 8, Revision 1, Effective Date: April 25, 2017.

Amendment Number 9 Effective Date: April 17, 2007, superseded by Amendment Number 9, Revision 1 on April 25, 2017.

Amendment Number 9, Revision 1, Effective Date: April 25, 2017.

Amendment Number 10 Effective Date: August 24, 2009, superseded by Amendment Number 10, Revision 1 on April 25, 2017.

Amendment Number 10, Revision 1, Effective Date: April 25, 2017.

Amendment Number 11 Effective Date: January 7, 2014, superseded by Amendment Number 11, Revision 1 on April 25, 2017.

Amendment Number 11, Revision 1, Effective Date: April 25, 2017.

Amendment Number 12 Effective Date: Amendment not issued by the NRC.

Amendment Number 13 Effective Date: May 24, 2014, superseded by Amendment Number 13, Revision 1 on April 25, 2017.

Amendment Number 13, Revision 1, Effective Date: April 25, 2017.

Amendment Number 14 Effective Date: April 25, 2017.

SAR Submitted by: Transnuclear, Inc.

SAR Title: Final Safety Analysis Report for the Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel.

Docket Number: 72–1004.

Certificate Expiration Date: January 23, 2015 (under timely renewal pursuant to 10 CFR 72.240(b)).

Model Number: NUHOMS®–24P, –24PHB, –24PTH, –32PT, –32PTH1, –37PTH, –52B, –61BT, –61BTH, and –69BTH.

* * * * *

Dated at Rockville, Maryland, this 19th day of December, 2016.

For the Nuclear Regulatory Commission.

Victor M. McCree,

Executive Director for Operations.

[FR Doc. 2016–31990 Filed 1–24–17; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 263

[Docket No. R–1543 RIN 7100 AE–55]

Rules of Practice for Hearings

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (the ''Board'') is issuing a final rule amending its rules of practice and procedure to adjust the amount of each civil money penalty (''CMP'') provided by law within its jurisdiction to account for inflation as required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

DATES: This final rule is effective January 25, 2017.

FOR FURTHER INFORMATION CONTACT: Patrick M. Bryan, Assistant General Counsel (202–974–7093), or Thomas O. Kelly, Senior Attorney (202–974–7059), Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Ave. NW., Washington, DC 20551. For users of Telecommunication Device for the Deaf (TDD) only, contact 202/263–4869.

SUPPLEMENTARY INFORMATION:

Federal Civil Penalties Inflation Adjustment Act

The Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note (''FCPIA Act''), requires federal agencies to adjust, by regulation, the CMPs within their jurisdiction to account for inflation. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the ''2015 Act'')[1] amended the FCPIA Act to require federal agencies to make a ''catch-up'' adjustment—the first inflation adjustment after the date of enactment of the 2015 Act—through an interim final rulemaking, to take effect no later than August 1, 2016, and to make adjustments not later than January 15 of every year thereafter.[2] On July 20, 2016, the Board issued an interim final rule setting the CMP levels pursuant to the required catch-up adjustment. The Board is now issuing a new final rule to set the CMP levels pursuant to the required annual adjustment for 2017. The Board will apply these adjusted maximum penalty levels to any penalties assessed on or after January 15, 2017, whose associated violations occurred on or after November 2, 2015. Penalties assessed for violations occurring prior to November 2, 2015 will be subject to the amounts set in the Board's 2012 adjustment pursuant to the FCPIA Act.[3]

Under the 2015 Act, the annual adjustment to be made for 2017 is the percentage by which the Consumer Price Index for the month of October 2016 exceeds the Consumer Price Index for the month of October 2015. On December 16, 2016, as directed by the 2015 Act, the Office of Management and Budget (OMB) issued guidance to affected agencies on implementing the required annual adjustment which included the relevant inflation multiplier.[4] Using OMB's multiplier, the Board calculated the adjusted penalties for its CMPs, rounding the penalties to the nearest dollar.[5]

Comment Received in Response to the July 20, 2016 Interim Final Rule

The Board received one comment letter on behalf of International Bancshares Corporation (''IBC'') in response to the July 20, 2016 interim final rule. IBC expressed disappointment that the Board published the new penalty levels through an interim final rule without engaging in prior notice and comment proceedings. As IBC itself acknowledged, however, the 2015 Act required the Board to adjust the penalties for the catch-up adjustment through an interim final rulemaking to take effect no later than August 1, 2016. IBC also expressed concern with many of the new maximum penalty amounts, urging the Board to exercise its discretion to ''withhold using its maximum penalty authority.'' Again, as IBC acknowledged, the Board calculated the new penalty amounts strictly in accordance with the 2015 Act and OMB's implementing guidance. Moreover, setting the new upper limits on penalties does not require the Board in any particular case to assess the maximum amounts.

Administrative Procedure Act

The 2015 Act states that agencies shall make the annual adjustment

[1] Pub. L. 114–74, 129 Stat. 599 (2015) (codified at 28 U.S.C. 2461 note).

[2] 28 U.S.C. 2461 note, section 4(b)(1).

[3] 77 FR 68680 (Nov. 16, 2012).

[4] OMB Memorandum M–17–11, *Implementation of the 2017 Annual Adjustment Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (Dec. 16, 2016).

[5] Under the 2015 Act and implementing OMB guidance, agencies are not required to make an adjustment to a CMP if, during the 12 months preceding the required adjustment, such penalty increased due to a law other than the 2015 Act by an amount greater than the amount of the required adjustment. No other laws have adjusted the CMPs within the Board's jurisdiction during the preceding 12 months.

''notwithstanding section 553 of title 5, United States Code.'' Therefore, this rule is not subject to the provisions of the Administrative Procedure Act (the ''APA''), 5 U.S.C. 553, requiring notice, public participation, and deferred effective date.

Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* requires a regulatory flexibility analysis only for rules for which an agency is required to publish a general notice of proposed rulemaking. Because the 2015 Act states that agencies' annual adjustments are to be made notwithstanding section 553 of title 5 of United States Code—the APA section requiring notice of proposed rulemaking—the Board is not publishing a notice of proposed rulemaking. Therefore, the Regulatory Flexibility Act does not apply.

Paperwork Reduction Act

There is no collection of information required by this final rule that would be subject to the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

List of Subjects in 12 CFR Part 263

Administrative practice and procedure, Claims, Crime, Equal access to justice, Lawyers, Penalties.

Authority and Issuance

For the reasons set forth in the preamble, the Board amends 12 CFR part 263 to read as follows:

PART 263—RULES OF PRACTICE FOR HEARINGS

■ 1. The authority citation for part 263 continues to read as follows:

Authority: 5 U.S.C. 504, 554–557; 12 U.S.C. 248, 324, 334, 347a, 504, 505, 1464, 1467, 1467a, 1817(j), 1818, 1820(k), 1829, 1831o, 1831p–1, 1832(c), 1847(b), 1847(d), 1884, 1972(2)(F), 3105, 3108, 3110, 3349, 3907, 3909(d), 4717; 15 U.S.C. 21, 78l(i), 78o–4, 78o–5, 78u–2; 1639e(k); 28 U.S.C. 2461 note; 31 U.S.C. 5321; and 42 U.S.C. 4012a.

■ 2. Section 263.65 is revised to read as follows:

§ 263.65 Civil money penalty inflation adjustments.

(a) *Inflation adjustments.* In accordance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, which further amended the Federal Civil Penalties Inflation Adjustment Act of 1990, the Board has set forth in paragraph (b) of this section the adjusted maximum amounts for each civil money penalty provided by law within the Board's jurisdiction. The authorizing statutes contain the complete provisions under which the Board may seek a civil money penalty. The adjusted civil money penalties apply only to penalties assessed on or after January 15, 2017, whose associated violations occurred on or after November 2, 2015.

(b) *Maximum civil money penalties.* The maximum (or, in the cases of 12 U.S.C. 334 and 1832(c), fixed) civil money penalties as set forth in the referenced statutory sections are set forth in the table in this paragraph (b).

Statute	Adjusted civil money penalty
12 U.S.C. 324:	
Inadvertently late or misleading reports, inter alia	$3,849
Other late or misleading reports, inter alia	38,492
Knowingly or reckless false or misleading reports, inter alia	1,924,589
12 U.S.C. 334	279
12 U.S.C. 374a	279
12 U.S.C. 504:	
First Tier	9,623
Second Tier	48,114
Third Tier	1,924,589
12 U.S.C. 505:	
First Tier	9,623
Second Tier	48,114
Third Tier	1,924,589
12 U.S.C. 1464(v)(4)	3,849
12 U.S.C. 1464(v)(5)	38,492
12 U.S.C. 1464(v)(6)	1,924,589
12 U.S.C. 1467a(i)(2)	48,114
12 U.S.C. 1467a(i)(3)	48,114
12 U.S.C. 1467a(r):	
First Tier	3,849
Second Tier	38,492
Third Tier	1,924,589
12 U.S.C. 1817(j)(16):	
First Tier	9,623
Second Tier	48,114
Third Tier	1,924,589
12 U.S.C. 1818(i)(2):	
First Tier	9,623
Second Tier	48,114
Third Tier	1,924,589
12 U.S.C. 1820(k)(6)(A)(ii)	316,566
12 U.S.C. 1832(c)	2,795
12 U.S.C. 1847(b)	48,114
12 U.S.C. 1847(d):	
First Tier	3,849
Second Tier	38,492
Third Tier	1,924,589
12 U.S.C. 1884	279
12 U.S.C. 1972(2)(F):	
First Tier	9,623
Second Tier	48,114

Statute	Adjusted civil money penalty
Third Tier	1,924,589
12 U.S.C. 3110(a)	43,983
12 U.S.C. 3110(c):	
First Tier	3,519
Second Tier	35,186
Third Tier	1,759,309
12 U.S.C. 3909(d)	2,394
15 U.S.C. 78u–2(b)(1):	
For a natural person	9,054
For any other person	90,535
15 U.S.C. 78u–2(b)(2):	
For a natural person	90,535
For any other person	452,677
15 U.S.C. 78u–2(b)(3):	
For a natural person	181,071
For any other person	905,353
15 U.S.C. 1639e(k)(1)	11,053
15 U.S.C. 1639e(k)(2)	22,105
42 U.S.C. 4012a(f)(5)	2,090

By order of the Board of Governors of the Federal Reserve System, January 9, 2017.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2017–00595 Filed 1–19–17; 4:15 pm]

BILLING CODE 6210–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2016–1060]

Special Local Regulation; Southern California Annual Marine Events for the San Diego Captain of the Port Zone—Hanohano Ocean Challenge

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Hanohano Ocean Challenge special local regulations on the waters of Mission Bay, California on January 28, 2017. These special local regulations are necessary to provide for the safety of the participants, crew, spectators, sponsor vessels, and general users of the waterway. During the enforcement period, persons and vessels are prohibited from anchoring, blocking, loitering, or impeding within this regulated area unless authorized by the Captain of the Port, or his designated representative.

DATES: The regulations in 33 CFR 100.1101 will be enforced from 7:00 a.m. through 2:00 p.m. on January 28, 2017 for Item 16 in Table 1 of Section 100.1101.

FOR FURTHER INFORMATION CONTACT: If you have questions about this publication of enforcement, call or email Lieutenant Robert Cole, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone (619) 278–7656, email *D11MarineEventsSD@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the special local regulations in 33 CFR 100.1101 for the Hanohano Ocean Challenge in Mission Bay, CA in 33 CFR 100.1101, Table 1, Item 16 of that section from 7:00 a.m. until 2:00 p.m. on January 28, 2017. This enforcement action is being taken to provide for the safety of life on navigable waterways during the event. The Coast Guard's regulation for recurring marine events in the San Diego Captain of the Port Zone identifies the regulated entities and area for this event. Under the provisions of 33 CFR 100.1101, persons and vessels are prohibited from anchoring, blocking, loitering, or impeding within this regulated area, unless authorized by the Captain of the Port, or his designated representative. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

This document is issued under authority of 5 U.S.C. 552(a) and 33 CFR 100.1101. In addition to this document in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via the Local Notice to Mariners, Broadcast Notice to Mariners, and local advertising by the event sponsor.

If the Captain of the Port Sector San Diego or his designated representative determines that the regulated area need not be enforced for the full duration stated on this document, he or she may use a Broadcast Notice to Mariners or other communications coordinated with the event sponsor to grant general permission to enter the regulated area.

Dated: December 15, 2016.

J.R. Buzzella,

Captain, U.S. Coast Guard, Captain of the Port San Diego.

[FR Doc. 2017–00903 Filed 1–24–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–0008]

Drawbridge Operation Regulation; Tombigbee River, Naheola, AL

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 Meridian & Bigbee Railroad (MNBR) vertical lift bridge across the Tombigbee River, mile 128.6 (Black Warrior Tombigbee Waterway mile 173.6) at Naheola, between Choctaw and Marengo Counties, Alabama. The deviation is necessary to conduct maintenance essential for the continued safe operation of the bridge. This deviation allows the bridge to remain in the closed-to-navigation position for certain daytime hours for two (2) three day periods between Friday, January 20, 2017, and Sunday, January 29, 2017.

DATES: This temporary deviation is effective from 7 a.m. on Friday, January 20, 2017, through 6 p.m. on Sunday, January 29, 2017.

ADDRESSES: The docket for this deviation, [USCG–2017–0008] 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 Giselle MacDonald, Bridge Administration Branch, Coast Guard, telephone (504) 671–2128, email *Giselle.T.MacDonald@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Meridian & Bigbee Railroad (MNBR) requested a temporary deviation from the operating schedule of the Meridian & Bigbee (MNBR) vertical lift bridge across the Tombigbee River, mile 128.6 (Black Warrior Tombigbee Waterway mile 173.6) at Naheola, between Choctaw and Marengo Counties, Alabama, in order to replace the mitre rails, which are essential for the continued safe operation of the bridge. The current bridge operating schedule is found in 33 CFR 117.118, and the bridge has a vertical clearance of 12.2 feet above ordinary high water (OHW), elevation of 64.5 feet, in the closed-to-navigation position and 55 feet above OHW in the open-to-navigation position.

This deviation will allow the bridge to remain in the closed-to-navigation position from 7 a.m. until 6 p.m., each day, January 20, 2017, through January 22, 2017, and from 7 a.m. until 6 p.m., each day, January 27, 2017, through January 29, 2017, with a scheduled two-hour opening, from 11 a.m. until 1 p.m., each day to facilitate passage of vessel traffic. The bridge will be open-to-navigation to facilitate vessel traffic at night.

Vessels able to pass through the bridge in the closed position may do so at any time. Navigation on the waterway consists of tugs with tows, fishing vessels, and recreational craft.

The Coast Guard will inform the waterways users through 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: January 17, 2017.

Eric Washburn,

Bridge Administrator, Eighth Coast Guard District.

[FR Doc. 2017–01420 Filed 1–24–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 101206604–1758–02]

RIN 0648–XF106

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2017 Recreational Accountability Measures and Closure for Atlantic Migratory Group Cobia

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for Atlantic migratory group cobia that are not sold (recreational) in the exclusive economic zone (EEZ) of the Atlantic. In 2015 and 2016, recreational landings of Atlantic migratory group cobia (Atlantic cobia) exceeded the stock annual catch limit (ACL), and therefore, AMs for the recreational sector are triggered for 2017. NMFS closes the recreational sector for Atlantic cobia in Federal waters on January 24, 2017, and it will remain closed for the remainder of the fishing year through December 31, 2017. This closure is necessary to protect the resource of Atlantic cobia.

DATES: This rule is effective from 12:01 a.m., local time, January 24, 2017, until 12:01 a.m., local time, January 1, 2018.

FOR FURTHER INFORMATION CONTACT: Mary Vara, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *mary.vara@noaa.gov.*

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish, which includes king mackerel, Spanish mackerel, and cobia, is managed under the Fishery Management Plan for Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Separate migratory groups of cobia were established in Amendment 18 to the FMP (76 FR 82058, December 29, 2011) and revised in Amendment 20B to the FMP (80 FR 4216, January 27, 2015). The southern boundary in Federal waters for Atlantic cobia is a line that extends due east of the Florida and Georgia state border at 30°42′45.6″ N. lat. The northern boundary in Federal waters for Atlantic cobia is at the jurisdictional boundary between the Mid-Atlantic and New England Fishery Management Councils. The northern boundary begins at the intersection point of the state waters of Connecticut, Rhode Island, and New York at 41°18′16.249″ N. lat. and 71°54′28.477″ W. long. and proceeds southeast in Federal waters to 37°22′32.75″ N. lat. and the intersection point with the outward boundary of the EEZ as specified in the Magnuson-Stevens Act.

Cobia in the Gulf of Mexico and Atlantic are unique among Federally managed species in the southeast region, because no commercial permit is required to harvest and sell them. The distinction between commercial and recreational sectors is not as clear as other Federally managed species in the southeast region. For example, regulations at 50 CFR part 622 specify ACLs and AMs for cobia that are sold and cobia that are not sold. However, for purposes of this temporary rule, Atlantic cobia that are sold are considered commercially caught, and those that are not sold are considered recreationally caught. All weights in this temporary rule are in round and gutted weight.

The AMs specified at 50 CFR 622.388(f)(2)(i) require NMFS, if commercial and recreational landings combined exceed the stock ACL, to reduce the length of the following fishing season by the amount necessary to ensure landings may achieve the applicable recreational annual catch target, but do not exceed the applicable recreational ACL in that following fishing year, by filing a notification with the Office of the Federal Register. By reducing the length of the following fishing season, NMFS would close the recreational sector for Atlantic cobia prior to the end of the fishing year.

NMFS has determined that total landings of Atlantic cobia exceeded the 2016 stock ACL of 670,000 lb (303,907 kg). Thus, the recreational AM, to shorten the following recreational fishing season, is triggered for 2017.

NMFS expects that recreational harvest of cobia will remain open in

state waters from Georgia through New York despite a closure in Federal waters and that the stock ACL in 2017 is expected to be exceeded, because historical recreational landings of cobia in state waters from Georgia through New York have represented 87 percent of total recreational landings from state and Federal waters. Accordingly, the recreational sector for Atlantic cobia will be closed at 12:01 a.m., local time, on January 24, 2017, and remain closed until the start of the next fishing year on January 1, 2018.

During the recreational closure, the possession limit of two cobia per day remains in effect (50 CFR 622.383(b)) for Atlantic cobia that are sold. The possession limit applies to cobia harvested in or from the EEZ in the Gulf of Mexico, Mid-Atlantic, or South Atlantic, regardless of the number of trips or duration of a trip. In addition, a person who fishes in the EEZ may not combine this harvest limitation with a harvest limitation applicable to state waters. Atlantic cobia taken in the EEZ may not be transferred at sea, regardless of where such transfer takes place, and may not be transferred in the EEZ.

The commercial quota for Atlantic cobia is 50,000 lb (22,680 kg), round weight, for the current fishing year, January 1 through December 31, 2017, as specified in 50 CFR 622.384(d)(2). The sale or purchase of Atlantic cobia taken under the possession limit is allowed until the commercial quota is reached or is projected to be reached. If commercial landings of Atlantic cobia reach or are projected to reach the commercial quota specified in § 622.384(d)(2), the Assistant Administrator for NOAA Fisheries (AA) will file a notification with the Office of the Federal Register to prohibit the sale and purchase of Atlantic cobia for the remainder of the 2017 fishing year.

Classification

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

This action is taken under 50 CFR 622.388(f)(2) and is exempt from review under Executive Order 12866.

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

This action responds to the best scientific information available. The AA finds good cause to waive the requirements to provide prior notice and opportunity for public comment, pursuant to the authority set forth at 5 U.S.C. 553(b)(B), as such prior notice and opportunity for public comment is unnecessary and contrary to the public interest. Such procedures are unnecessary because the AMs for Atlantic cobia have already been subject to notice and comment, and all that remains is to notify the public of the recreational closure for the remainder of the 2017 fishing year. Additionally, there is a need to immediately implement the closure to prevent further recreational harvest and prevent its ACL from being exceeded, which will protect the Atlantic cobia resource. Prior notice and opportunity for public comment on this action would be contrary to the public interest, because those affected by the closure need as much advance notice as NMFS is able to provide.

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

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

Dated: January 10, 2017.

Emily H. Menashes,

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

[FR Doc. 2017–00785 Filed 1–24–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 160301164–6694–02]

RIN 0648–XF146

Fisheries of the Northeastern United States; Northeast Skate Complex; Adjustment to the Skate Wing and Skate Bait Inseason Possession Limits

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

ACTION: Temporary rule; inseason adjustments.

SUMMARY: We announce the reduction of the commercial per-trip possession limits for the skate wing and skate bait fisheries for the remainder of the 2016 fishing year, through April 30, 2017. These possession limit reductions are necessary to prevent the seasonal skate wing and skate bait commercial quotas from being exceeded and still allow an opportunity for harvesting the annual total allowable landings. This announcement informs the public that the skate wing and skate bait possession limits are reduced.

DATES: Effective January 30, 2017, through April 30, 2017.

FOR FURTHER INFORMATION CONTACT: Reid Lichwell, Fishery Management Specialist, 978–281–9112.

SUPPLEMENTARY INFORMATION:

Background

The skate wing and skate bait fisheries are managed primarily through the Northeast Skate Complex Fishery Management Plan. The regulations describing the process to adjust inseason commercial possession limits of skate wings and skate bait are described at 50 CFR 648.322(b) and (d). The current skate wing possession limit is 9,307 lb (4,222 kg) whole weight, 4,100 lb (1,860 kg) skate wings, and the current skate bait possession limit is 25,000 lb (11,340 kg). When the NMFS Greater Atlantic Regional Administrator projects seasonal skate wing and skate bait landings to reach 85 and 90 percent, respectively, of the annual total allowable landings (TAL), the Regional Administrator may reduce the skate wing possession limit and is required to reduce the skate bait possession limit for the remainder of the season, unless the reductions would be expected to prevent attainment of the annual TAL. The skate wing possession limit may be reduced to the incidental catch limit of 500 lb (227 kg) skate wings; the skate bait possession limit must be reduced to the 1,135-lb (515-kg) whole-weight equivalent of the skate wing possession limit. We anticipate that implementing these inseason adjustments will allow an opportunity for both fisheries to harvest the annual TAL while reducing the possibility of exceeding it.

Inseason Action

Based on commercial landings data reported through December 24, 2016, we project the skate wing and skate bait fisheries to reach 85 and 90 percent of their annual TAL, respectively, on January 18, 2017. The annual TAL for both the skate wing and skate bait fisheries is divided into seasonal quota periods in which landings are applied to each quota to evaluate the need for possession limit reductions. We are currently in skate wing season 2 (September 1, 2016, through April 30, 2017) and skate bait season 3 (November 1, 2016, through April 30, 2017). These are the final skate seasons of the 2016 fishing year, providing us with cumulative annual landings data which allow us to calculate when the annual TAL would be harvested. We have

evaluated catch data to project when the possession limit reduction triggers are projected to be reached. Catch projections indicate that retaining the current possession limits would result in the harvest of 110 percent of the skate wing annual TAL and 107 percent of the skate bait annual TAL. We anticipate that implementing these inseason adjustments will allow an opportunity for both fisheries to harvest the annual TAL while significantly reducing the possibility of exceeding it.

Therefore, consistent with § 648.322(b) and (d), we are reducing the skate wing possession limit from 4,100 lb (1,860 kg) of skate wings [9,307 lb (4,222 kg) whole weight] to 500 lb (227 kg) of skate wings [1,135 lb (515 kg) whole weight] per trip, and the skate bait possession limit is reduced from 25,000 lb (11,340 kg) to 1,135 lb (515 kg) of whole weight skate per trip. Beginning January 30, 2017, no person may possess on board or land more than 500 lb (227 kg) of skate wings [1,135 lb (515 kg) whole weight] per trip for the remainder of the 2016 fishing year. On May 1, 2017, the commercial skate wing possession limit will increase to the skate wing season 1 (May 1, 2017, to August 31, 2017) possession limit of 2,600 lb (1,179 kg) of skate wings [5,902 lb (2,677 kg) whole weight] per trip, and the commercial skate bait possession limit will increase to 25,000 lb (11,340 kg) per trip.

Classification

This action is taken under 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: January 10, 2017.

Emily H. Menashes,

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

[FR Doc. 2017–00786 Filed 1–24–17; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 82, No. 15
Wednesday, January 25, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2016–0200]

RIN 3150–AJ86

List of Approved Spent Fuel Storage Casks: AREVA Inc., Standardized NUHOMS® Cask System, Certificate of Compliance No. 1004, Amendment No. 14, and Revision 1 of the Initial Certificate, Amendment Nos. 1 through 11, and Amendment No. 13

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its spent fuel storage regulations by revising the AREVA Inc. (AREVA), Standardized NUHOMS® Cask System listing within the ''List of approved spent fuel storage casks'' to add Amendment No. 14, and Revision 1 to the Initial Certificate, Amendment Nos. 1 through 11, and Amendment No. 13 to Certificate of Compliance (CoC) No. 1004. Amendment No. 14 proposes to revise multiple items in the technical specifications (TSs) for dry shielded canister (DSC) models listed under CoC No. 1004; most of these revisions involve changes to the authorized contents. The revisions to the Initial Certificate, Amendment Nos. 1 through 11, and Amendment No. 13 will remove language in the TSs that requires a transfer cask containing a DSC to be returned to the spent fuel pool following a drop of over 15 inches.

DATES: Submit comments by February 24, 2017. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

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

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0200. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to: Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301–415–1677.

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

FOR FURTHER INFORMATION CONTACT: Edward Lohr, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–0253; email: *Edward.Lohr@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2016–0200 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–2016–0200.
- *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.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2016–0200 in your comment submission.

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

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

II. Rulemaking Procedure

This proposed rule is limited to the changes contained in Amendment No. 14 and the revisions to the Initial Certificate, Amendment Nos. 1 through 11, and Amendment No. 13 to CoC No. 1004 and does not include other aspects of the AREVA Standardized NUHOMS® Cask System design. Because the NRC considers this action noncontroversial and routine, the NRC is publishing this proposed rule concurrently with a direct final rule in the Rules and Regulations section of this issue of the **Federal Register**. Adequate protection of public health and safety continues to be ensured. The direct final rule will become effective on April 25, 2017. The direct final rule has an effective date of 90 days from publication in lieu of the historical 75 days because it has two rulemaking actions that have to be coordinated after the public comment

period is closed and before the final rule takes effect. However, if the NRC receives significant adverse comments on this proposed rule by February 24, 2017, then the NRC will publish a document that withdraws the direct final rule. If the direct final rule is withdrawn, the NRC will address the comments received in response to these proposed revisions in a subsequent final rule. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action in the event the direct final rule is withdrawn. A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

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

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

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

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

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

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

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

III. Background

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

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule which added a new subpart K in part 72 of title 10 of the *Code of Federal Regulations* (10 CFR) entitled, ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). This rule also established a new subpart L in 10 CFR part 72 entitled, ''Approval of Spent Fuel Storage Casks,'' which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on December 22, 1994 (59 FR 65898), that approved the AREVA Standardized NUHOMS® Cask System design and added it to the list of NRC-approved cask designs in 10 CFR 72.214 as CoC No. 1004.

IV. Plain Writing

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

V. Availability of Documents

The documents identified in the following table are available to interested persons as indicated.

Document	ADAMS accession number
AREVA Application for Renewal of Standardized NUHOMS® Storage System, letter dated November 4, 2014	ML14309A341 (Package).
AREVA Request to Add Amendment No. 14 to CoC No. 1004, letter dated April 16, 2015	ML15114A056.
Summary of June 10, 2015, Public Meeting with AREVA to Discuss Amendment No. 14 to CoC No. 1004	ML15176A344 (Package).
NRC Request for Additional Information Related to AREVA Amendment No. 14 to CoC No. 1004, letter dated August 31, 2015.	ML15245A064.
AREVA Response to NRC Request for Additional Information Related to Amendment No. 14 to CoC No. 1004, letter dated November 11, 2015.	ML15331A355 (Package).
NRC Request for Additional Information Related to AREVA Amendment No. 14 to CoC No. 1004, letter dated February 17, 2016.	ML16049A559.
AREVA Response to NRC Request for Additional Information Related to Amendment No. 14 to CoC No. 1004, letter dated March 14, 2016.	ML16076A231.
AREVA Amendment No. 14 to CoC No. 1004	ML16246A173.
Technical Specifications for AREVA Amendment No. 14 to CoC No. 1004	ML16246A170.
Final Safety Evaluation Report for CoC No. 1030	ML14288A485.
Preliminary Safety Evaluation Report for AREVA Amendment No. 14 to CoC No. 1004	ML16246A169.
AREVA Requested Revisions of Amendment Nos. 0–11, and Amendment No. 13 to CoC No. 1004, letter dated August 24, 2015*.	ML15239A718 (Package).
NRC Request for Additional Information Related to AREVA Revisions of Amendment Nos. 0–11, and Amendment No. 13 to CoC No. 1004, letter dated January 19, 2016*.	ML16019A301 (Package).
AREVA Response to NRC Request for Additional Information Related to Revisions of Amendment Nos. 0–11, and Amendment No. 13 to CoC No. 1004, letter dated February 9, 2016*.	ML16054A214 (Package).
AREVA Revisions of Amendment Nos. 0–11, and Amendment No. 13 to CoC No. 1004 (including technical specifications)*.	ML16183A005 (Package).
Supporting Documentation Related to Backfit from General Licensees Associated with AREVA Request to Revise Amendment Nos. 0–11, and Amendment No. 13 to CoC No. 1004*.	ML16054A226 (Package).
Preliminary Safety Evaluation Report for AREVA Revisions of Amendment Nos. 0–11, and Amendment No. 13 to CoC No. 1004*.	ML16183A022.

* The term ''Amendment 0'' used in the supporting documents for this proposed rule and the term ''Initial Certificate'' used in 10 CFR 72.214 describes the same document. Initial Certificate is the correct term and will be used henceforth when discussion involves this document.

The NRC may post materials related to this document, including public comments, on the Federal Rulemaking Web site at *http://www.regulations.gov* under Docket ID NRC–2016–0200. The Federal Rulemaking Web site allows you to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) Navigate to the docket folder (NRC–2016–0200); (2) click the ''Sign up for Email Alerts'' link; and (3) enter your email address and select how frequently you would like to receive emails (daily, weekly, or monthly).

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Hazardous waste, Indians, Intergovernmental relations, Manpower training programs, Nuclear energy, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

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

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

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

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

■ 2. In § 72.214, Certificate of Compliance 1004 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1004. *Initial Certificate Effective Date:* January 23, 1995, superseded by Initial Certificate, Revision 1, on [DATE 90 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**].

Initial Certificate, Revision 1, Effective Date: [DATE 90 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**].

Amendment Number 1 Effective Date: April 27, 2000, superseded by Amendment Number 1, Revision 1 on [DATE 90 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**].

Amendment Number 1, Revision 1, Effective Date: [DATE 90 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**].

Amendment Number 2 Effective Date: September 5, 2000, superseded by Amendment Number 2, Revision 1 on [DATE 90 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**].

Amendment Number 2, Revision 1, Effective Date: [DATE 90 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**].

Amendment Number 3 Effective Date: September 12, 2001, superseded by Amendment Number 3, Revision 1 on [DATE 90 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**].

Amendment Number 3, Revision 1, Effective Date: [DATE 90 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**].

Amendment Number 4 Effective Date: February 12, 2002, superseded by Amendment Number 4, Revision 1 on [DATE 90 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**].

Amendment Number 4, Revision 1, Effective Date: [DATE 90 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**].

Amendment Number 5 Effective Date: January 7, 2004, superseded by Amendment Number 5, Revision 1 on [DATE 90 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**].

Amendment Number 5, Revision 1, Effective Date: [DATE 90 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**].

Amendment Number 6 Effective Date: December 22, 2003, superseded by Amendment Number 6, Revision 1 on [DATE 90 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**].

Amendment Number 6, Revision 1, Effective Date: [DATE 90 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**].

Amendment Number 7 Effective Date: March 2, 2004, superseded by Amendment Number 7, Revision 1 on [DATE 90 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**].

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Amendment Number 8 Effective Date: December 5, 2005, superseded by Amendment Number 8, Revision 1 on [DATE 90 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**].

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Amendment Number 9 Effective Date: April 17, 2007, superseded by Amendment Number 9, Revision 1 on [DATE 90 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**].

Amendment Number 9, Revision 1, Effective Date: [DATE 90 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**].

Amendment Number 10 Effective Date: August 24, 2009, superseded by Amendment Number 10, Revision 1 on [DATE 90 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**].

Amendment Number 10, Revision 1, Effective Date: [DATE 90 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**].

Amendment Number 11 Effective Date: January 7, 2014, superseded by Amendment Number 11, Revision 1 on [DATE 90 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**].

Amendment Number 11, Revision 1, Effective Date: [DATE 90 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**].

Amendment Number 12 Effective Date: Amendment not issued by the NRC.

Amendment Number 13 Effective Date: May 24, 2014, superseded by Amendment Number 13, Revision 1 on [DATE 90 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**].

Amendment Number 13, Revision 1, Effective Date: [DATE 90 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**].

Amendment Number 14 Effective Date: [DATE 90 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**].

SAR Submitted by: Transnuclear, Inc.

SAR Title: Final Safety Analysis Report for the Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel.

Docket Number: 72–1004.

Certificate Expiration Date: January 23, 2015 (under timely renewal pursuant to 10 CFR 72.240(b)).

Model Number: NUHOMS®–24P, –24PHB, –24PTH, –32PT, –32PTH1, –37PTH, –52B, –61BT, –61BTH, and –69BTH.

* * * * *

Dated at Rockville, Maryland, this 19th day of December, 2016.

For the Nuclear Regulatory Commission.

Victor M. McCree,

Executive Director for Operations.

[FR Doc. 2016–31987 Filed 1–24–17; 8:45 am]

BILLING CODE 7590–01–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 49

RIN 3038–AE44

Proposed Amendments To Swap Data Access Provisions and Certain Other Matters

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Pursuant to Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (''Dodd-Frank Act''), as amended by the Fixing America's Surface Transportation Act of 2015 (''FAST Act''), the Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is proposing amendments the Commission's regulations relating to access to swap data held by Swap Data Repositories. The proposed amendments would implement pertinent provisions of the FAST Act and make associated changes to the Commission's regulations governing the grant of access to swap data to certain foreign and domestic authorities by Swap Data Repositories and to certain other regulations unrelated to such access.

DATES: Comments must be received on or before March 27, 2017.

ADDRESSES: You may submit comments, identified by RIN 3038–AE44, by any of the following methods:

- *CFTC Web site: https://comments.cftc.gov.* Follow the instructions for submitting comments through the Comments Online process on the Web site.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail, above.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Please submit your comments using only one method.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act (''FOIA''), a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the FOIA.

FOR FURTHER INFORMATION CONTACT: Daniel Bucsa, Deputy Director, Division of Market Oversight—Data and Reporting Branch, (202) 418–5435, *dbucsa@cftc.gov;* Jeffrey P. Burns, Assistant General Counsel, Office of the General Counsel, (202) 418–5101, *jburns@cftc.gov;* David E. Aron, Special Counsel, Division of Market Oversight—Data and Reporting Branch, (202) 418–6621, *daron@cftc.gov;* or Owen J. Kopon, Special Counsel, Division of Market Oversight—Data and Reporting Branch, (202) 418–5360, *okopon@cftc.gov,* Commodity Futures Trading Commission, Three Lafayette Centre, 1151 21st Street NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

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I. Background and Introduction

A. Statutory Background: The Dodd-Frank Act

Title VII of the Dodd-Frank Act[2] amended the Commodity Exchange Act (''CEA'' or the ''Act'')[3] to establish a

[1] 17 CFR 145.9. All Commission regulations cited herein are set forth in chapter I of Title 17 of the Code of Federal Regulations.

[2] *See* Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010), available at *http://www.cftc.gov/LawRegulation/OTCDERIVATIVES/index.htm.* Title VII of the Dodd-Frank Act, which amended the Commodity Exchange Act (''CEA'' or the ''Act''), may be cited as the Wall Street Transparency and Accountability Act of 2010.

[3] 7 U.S.C. 1 *et seq.*

comprehensive new regulatory framework for swaps including, in new CEA section 21, the registration and regulation of Swap Data Repositories (''SDRs'').[4] CEA section 21 imposes on SDRs, among other duties and responsibilities, the duty to maintain the privacy of all swap transaction information received from a swap dealer, counterparty, or any other registered entity.[5] CEA section 21(c)(7) directs SDRs to make swap data available ''on a confidential basis pursuant to section 8 [of the CEA]'' [6] to certain enumerated domestic authorities and any other person the Commission determines to be appropriate, which may include certain types of foreign authorities.[7] Entities that are eligible to receive access to swap data from an SDR pursuant to CEA section 21(c)(7) are referred to herein, collectively, as the ''21(c)(7) entities'').

As originally enacted, CEA sections 21(d)(1) and (2) of the Act mandated that, prior to receipt of any requested data or information from an SDR, a 21(c)(7) entity agree in writing to abide by the confidentiality requirements described in CEA section 8 and, separately, to indemnify the SDR and the Commission for ''any expenses arising from litigation relating to the information provided under section 8.'' [8] Congress's repeal of the CEA section 21(d)(2) indemnification requirement in the FAST Act in December 2015 gave rise to the amendments proposed in this release.

B. Regulatory History: The Part 49 Rules and the Commission's 2012 Interpretative Statement

1. Access to SDR Swap Data

In 2011, the Commission adopted rules implementing CEA section 21's requirements for SDRs.[9] The Commission implemented the SDR swap data access provisions of CEA sections 21(c)(7) and (d) by establishing processes by which various categories of entities could gain access to SDR swap data. The domestic entities enumerated in CEA section 21(c)(7)(A)–(D),[10] and certain others deemed by the Commission to be appropriate recipients of such swap data pursuant to CEA section 21(c)(7)(E),[11] were defined in § 49.17(b)(1) of the Commission's regulations as ''Appropriate Domestic Regulators'' (''ADRs'').[12]

The term ''Appropriate Foreign Regulator'' (''AFR'') [13] was defined in § 49.17(b)(2) as a ''Foreign Regulator'' [14] with an existing memorandum of understanding (''MOU'') or similar type of arrangement with the Commission; no AFRs were specifically identified in the rule. The term ''Appropriate Foreign Regulator'' was also defined to include a Foreign Regulator without an existing MOU with the Commission, as determined by the Commission on a case-by-case basis. Such a Foreign Regulator was required to file with the Commission an application providing sufficient facts and procedures to permit the Commission to analyze whether the Foreign Regulator employs appropriate confidentiality procedures, and to satisfy the Commission that any SDR data accessed by the Foreign Regulator would be disclosed ''only as permitted by [s]ection 8(e)'' of the CEA.[15]

An ADR or AFR seeking access to SDR data is required by current § 49.17(d)(1) to file an access request with the SDR certifying that it is acting within the scope of its jurisdiction and is required by current § 49.17(d)(6) to execute a ''Confidentiality and Indemnification Agreement'' with the SDR.[16]

2. The Regulatory Indemnification Requirement

In the preamble to the SDR Final Rules, the Commission acknowledged commenters' concerns that compliance with the statutory and regulatory indemnification requirements would be difficult for certain domestic and foreign regulators due to various home country laws and other regulations prohibiting such arrangements,[17] and expressed its intent to continue to work to provide regulators sufficient access to SDR data. In this regard, the Commission outlined the circumstances under which it believed the indemnification provision of CEA section 21(d) and § 49.18 would

[4] *See* Dodd-Frank Act section 728 (adding new CEA section 21, 7 U.S.C. 24(a), to establish a registration requirement and regulatory regime for SDRs).

[5] 7 U.S.C. 24a(c)(6).

[6] As is discussed more fully below, CEA section 8 describes circumstances under which public disclosure of information in the Commission's possession is permitted and prohibited. As is particularly relevant here, CEA section 8(e) permits the Commission to disclose information in its possession and obtained in connection with the administration of the CEA, upon request, to Federal departments and agencies acting within the scope of their jurisdiction but prohibits such recipients from disclosing such information except in an action or proceeding under the laws of the United States to which the recipient, the Commission or the United States is a party. CEA section 8(e) further permits the Commission to disclose information in its possession obtained in connection with administration of the CEA, upon request, to any foreign futures authority, department, central bank and ministries, or agency of a foreign government or political subdivision thereof, acting within the scope of its jurisdiction, subject to the condition that the Commission is satisfied that the information will not be disclosed by such recipient other than in connection with an adjudicatory action or proceeding to which the foreign futures authority, department, central bank and ministries, or the foreign government or political subdivision or agency thereof is a party, and which is brought under the laws of the foreign government or its political subdivision, See 7 U.S.C. 12(e).

[7] *See* 7 U.S.C. 24a(c)(7). *See also* Commission, Final Rulemaking: Swap Data Recordkeeping and Reporting Requirements, 77 FR 2136, Jan. 13, 2012 (''Data Final Rules''). The Data Final Rules set forth, among others, regulations governing SDR data collection and reporting responsibilities under part 45 of the Commission's regulations.

[8] 7 U.S.C. 24a(d). As noted above, the indemnification requirement was stricken from CEA section 21(d) by the FAST Act. *See* Public Law 114–94, section 86001(b)(2).

[9] Swap Data Repositories: Registration Standards, Duties and Core Principles; 76 FR 54538 (Sept. 1, 2011) (''SDR Final Rules''); *see also* Swap Data Repositories: Registration Standards, Duties and Core Principles, 75 FR 80898 (Dec. 23, 2010) (the proposed SDR Final Rules) (''SDR NPRM'').

[10] The domestic regulators enumerated in CEA section 21(c)(7)(A)–(D) are: (A) Each appropriate prudential regulator; (B) the Financial Stability Oversight Council (''FSOC''); (C) the Securities and Exchange Commission (''SEC''); and (D) the Department of Justice. The term ''prudential regulator'' is defined in CEA section 1a(39).

[11] In addition to enumerating certain domestic entities to which an SDR must grant swap data access, CEA section 21(c)(7)(E) identifies as an eligible recipient of such access ''any other person that the Commission determines to be appropriate, including—foreign financial supervisors (including foreign futures authorities); foreign central banks; foreign ministries; and other foreign authorities[.]'' 7 U.S.C. 24a(c)(7)(E). Pursuant to this authority, in rules 49.17(b)(1)(v) and (vi), the Commission identified any Federal Reserve Bank and the Office of Financial Research (''OFR''), respectively, as ''Appropriate Domestic Regulators.'' The Commission also defined as an ''Appropriate Domestic Regulator'' each prudential regulator identified in CEA section 1(a)(39), with respect to requests related to any such regulator's statutory authority. *See* § 49.17(b)(1)(ii). The Commission further reserved the discretion, in § 49.17(b)(1)(vii), to recognize ''[a]ny other person the Commission deems appropriate'' to be an ''Appropriate Domestic Regulator.''

[12] Pursuant to § 49.17(d)(2), ADRs with regulatory jurisdiction over an SDR are not required to apply for access to SDR data or to execute a confidentiality and indemnification agreement if the regulator executes an information sharing arrangement with the Commission and the Commission designates the regulator to receive direct electronic access to SDR data pursuant to CEA section 21(c)(4). *See also* § 49.18(c).

[13] The Commission established the category of AFRs pursuant to CEA section 21(c)(7)(E), which, among other things, includes a list of the types of foreign entities that the Commission may determine to be appropriate recipients of such swap data access.

[14] The term ''Foreign Regulator'' is defined in § 49.2(a)(5) to mean a foreign futures authority as defined in CEA section 1(a)(26), foreign financial supervisors, foreign central banks and foreign ministries.

[15] 17 CFR 49.17(b)(2)(i)(B).

[16] Current § 49.18(b) requires an SDR to receive such a Confidentiality and Indemnification Agreement from an ADR or AFR prior to releasing swap data to the ADR or AFR.

[17] *See* SDR Final Rules at 54554. The Commission notes that, prior to passage of the FAST Act on December 4, 2015, no 21(c)(7) entity had entered into a confidentiality or indemnification agreement pursuant to CEA section 21(d) or the part 49 rules.

not apply. The Commission explained that, under the part 49 rules, certain Appropriate Domestic Regulators may in some circumstances obtain access to swap data reported and maintained by SDRs without regard to the notice and indemnification requirements of CEA sections 21(c)(7) and (d).[18] With respect to foreign regulatory authorities, the Commission determined in the SDR Final Rules that swap data reported to and maintained by an SDR may be accessed by an AFR without the execution of a confidentiality and indemnification agreement when the AFR has supervisory authority over a Commission-registered SDR that is also registered with the AFR pursuant to foreign law and/or regulation.

Concerns about the scope of the indemnification provision persisted, and in October 2012 the Commission issued an Interpretative Statement, which was designed to provide guidance and greater clarity to interested members of the public and foreign regulators with respect to the scope and application of CEA section 21(d) and the part 49 rules.[19] The Interpretative Statement clarified that a foreign regulatory authority's access to swap data held in a CFTC-registered SDR would not be subject to the confidentiality and indemnification provisions of CEA section 21(d) or the part 49 regulations if (i) the registered SDR is also registered in, or recognized or otherwise authorized by, the foreign authority's regulatory regime; and (ii) the data sought to be accessed by the foreign authority has been reported to the registered SDR pursuant to such foreign regulatory regime.[20]

C. FAST Act Amendments to CEA Section 21

Congress responded to the regulators' access concerns by including in the FAST Act a repeal of CEA section 21(d)(2)'s indemnification requirement.[21] The confidentiality requirement in CEA section 21(d)(1) was retained in CEA section 21(d), as amended.[22]

The FAST Act also modified CEA section 21(c)(7)(A) by specifying that ''swap'' data—as opposed to ''all'' data—must be provided to 21(c)(7) entities, and added to CEA section 21(c)(7)(E)'s non-exclusive list of persons that the Commission may determine to be appropriate recipients of SDR swap data the new category ''other foreign authorities.''

D. CEA Section 8 Informs the Confidentiality Provisions of CEA Section 21

CEA section 8 governs the Commission's treatment of nonpublic information in its possession in a number of circumstances, and its disclosure restrictions and confidentiality standards expressly inform the access provisions of CEA sections 21(c)(7) and 21(d). As relevant here, CEA section 8(e) permits the Commission to furnish to the specified types of domestic or foreign entities—upon their request and acting within the scope of their jurisdiction—any information in its possession obtained in connection with the administration of the Act.[23] CEA section 8(e) specifies, with respect to U.S. entities, that any information furnished thereunder shall not be disclosed except in an action or proceeding under the laws of the United States to which the entity, the Commission or the United States is a party. CEA section 8(e) further specifies, with respect to the specified types of foreign entities, that the Commission shall not furnish information thereunder unless the Commission is satisfied that the information will not be disclosed by the entity except in connection with an adjudicatory action or proceeding to which the entity is a party brought under the laws to which such entity is subject.

The principles underlying CEA section 8(e) are also fundamental to CEA sections 21(c)(7) and (d) and to the access standards and confidentiality provisions proposed in this release. In proposing clearer and more robust access and confidentiality standards in §§ 49.17 and 49.18, the Commission is mindful of these foundational principles: Where information is sought to be accessed, the information must relate to the scope of the requesting entity's jurisdiction or authority; and information provided by the SDR shall not be further disclosed except in limited, defined circumstances.

E. Summary of Proposed Revisions to Part 49

Pursuant to its authority under the Act,[24] the Commission is proposing amendments to §§ 49.2, 49.9, 49.17, 49.18, and 49.22 to (i) implement the statutory changes mandated by the FAST Act Amendments; (ii) make certain conforming and clarifying changes related to such implementation; (iii) revise the process by which appropriateness is determined for purposes of access to SDR swap data and clarify the standards in connection with the Commission's appropriateness determinations; and (iv) establish the form and substance of the written agreement mandated by CEA section 21(d), as amended. In formulating the following proposed amendments, the Commission has endeavored to balance the goal of effective and consistent global regulation of swaps [25] with the mandate of CEA sections 21(c)(7) and (d) that swap data be made available to a limited universe of regulators on a

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[18] It was, in the Commission's view, appropriate to permit access to the swap data maintained by SDRs to Appropriate Domestic Regulators that have concurrent regulatory jurisdiction over such SDRs, without the application of the notice and indemnification provisions of CEA sections 21(c)(7) and (d). *See* SDR Final Rules at 54554, n163. Accordingly, pursuant to the Commission's Part 49 rules, these provisions did not apply to an Appropriate Domestic Regulator that has regulatory jurisdiction over an SDR registered with it pursuant to a separate statutory authority that is also registered with the Commission, if the Appropriate Domestic Regulator executes an MOU or similar information sharing arrangement with the Commission and the Commission, consistent with CEA section 21(c)(4)(A), designates the Appropriate Domestic Regulator to receive direct electronic access. *See* 17 CFR 49.17(d)(2).

[19] *See* Swap Data Repositories: Interpretative Statement Regarding the Confidentiality and Indemnification Provisions of the Commodity Exchange Act, 77 FR 65177 (Oct. 25, 2012) (''Interpretative Statement'').

[20] Interpretative Statement at 65181.

[21] Title LXXXVI (''Repeal of Indemnification Requirements'') of the FAST Act amends the CEA by:

repeal[ing] the indemnification requirements added by the Dodd-Frank Wall Street Reform and Consumer Protection Act for regulatory authorities to obtain access to swap data. Foreign regulators and regulatory entities have indicated concerns regarding the indemnification requirements of Dodd-Frank. The title removes such requirements so data can be shared with foreign authorities. The title would still require the regulatory agencies requesting the information to agree to certain confidentiality requirements prior to receiving the data.

FAST Act: Conference Report to Accompany H.R. 22, Dec. 1, 2015 at 486–87. The repeal applied as well to the analogous provision in the Securities Exchange Act of 1934, 15 U.S.C. 78m(n)(5).

[22] The legislation struck subsection (d) of CEA section 21 and inserted in its place a provision entitled, ''Confidentiality Agreement,'' that states that before a swap data repository may share information with any entity described in subsection (c)(7), the swap data repository shall receive a written agreement from each entity stating that the entity shall abide by the confidentiality requirements described in section 8 of the CEA relating to the information on swap transactions that is provided. *See* FAST Act, Public Law 114–94, 129 Stat. 1312 (Dec. 4, 2015).

[23] 7 U.S.C. 12(e).

[24] *See, e.g.,* CEA section 21(f)(4) (Additional duties developed by Commission), 7 U.S.C. 24a(f)(4). The Commission is also authorized by CEA section 8a(5), 7 U.S.C. 12a(5), to make such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions or to accomplish any of the purposes of the Act.

[25] Section 752 of the Dodd-Frank Act directs the CFTC, the SEC and the prudential regulators, as appropriate, to consult and coordinate with foreign regulatory authorities in this regard and provides that these entities may agree to such information-sharing arrangements as may be deemed necessary or appropriate in the public interest or for the protection of investors, swap counterparties, and security-based swap counterparties.

confidential basis pursuant to CEA section 8. The proposed rules and rule amendments would, if adopted:

- Add ''other foreign authorities'' to the foreign regulators identified in § 49.2(a)(5), consistent with the FAST Act's amendment to CEA section 21(c)(7)(E) to include this category among the entities that the Commission may deem appropriate to access SDR swap data;
- Amend § 49.9 to make clarifying changes;
- Amend § 49.17 to, among other things: (i) Delete all references to the indemnification requirement and/or indemnification agreement; (ii) establish a process and clarify the standards for determining whether certain entities not enumerated in § 49.17(b)(1)(i)–(vi) are appropriate to directly access swap data from an SDR; (iii) revise the SDR notification requirement so that SDRs notify the Commission only for each initial request for swap data by ADRs and AFRs and any subsequent request at variance with the ADR's or AFR's scope of jurisdiction; (iv) specify that the information available to ADRs and AFRs is ''swap data''—as distinguished from ''data,'' to reflect the corresponding FAST Act amendment to CEA section 21; and (v) add a delegation of authority provision so that Commission staff is able to efficiently administer certain functions related to SDR swap data access;
- Amend § 49.18 to, among other things: (i) Delete all references to the indemnification requirement and/or indemnification agreement; (ii) require that SDRs receive, prior to providing SDR swap data access to an ADR or AFR, a written confidentiality arrangement between the Commission and such ADR or AFR; (iii) specify the required elements of such written confidentiality arrangement; (iv) require SDRs to notify the Commission of any known failures to fulfill the terms of a confidentiality arrangement required by § 49.18(a); (v) inform ADRs, AFRs and SDRs that the Commission may direct an SDR to limit, suspend or revoke an ADR's or AFR's access to swap data held by an SDR if such ADR or AFR has failed to fulfill the terms of a confidentiality arrangement required by § 49.18(a); and (vi) add a delegation of authority provision so that Commission staff is able to efficiently administer certain functions related to SDR swap data access; and
- Amend § 49.22(d)(4) to omit a reference to indemnification in order to conform to the corresponding FAST Act amendment to the CEA.

F. Rescission of 2012 Interpretative Statement

The Commission has determined to rescind its 2012 Interpretative Statement. References to the indemnification requirement in the Interpretative Statement are no longer relevant as the indemnification requirement in CEA section 21(d) has been repealed by the FAST Act. Additionally, the modifications to § 49.17(d)(3) that are proposed here are consistent with the clarifications provided in the Interpretative Statement.

II. Discussion

A. Definitions: Proposed Amendments to § 49.2

As originally adopted, § 49.2(a)(5) defined the term ''foreign regulator'' to include a foreign futures authority as defined in CEA section 1a(26), foreign financial supervisors, foreign central banks and foreign ministries.[26] The FAST Act amendments to the CEA added to subsection 21(c)(7)(E) a new category of entity—''other foreign authorities''—that the Commission may deem appropriate to obtain access to SDR swap data. The Commission proposes a corresponding amendment to the definition of ''foreign regulator'' in § 49.2(a)(5) to conform this definition to amended subsection 21(c)(7)(E).

B. Domestic and Foreign Regulators With Regulatory Responsibility) Over SDRs: Proposed Amendments to § 49.17(d)(2) and (3)

1. The Current Rule

Commission regulation 49.17(d)(2) of the Commission's regulations currently provides that an ADR with regulatory jurisdiction over an SDR registered with it pursuant to a separate statutory authority that is also registered with the Commission is not subject to the requirements of § 49.17(d) (application and notice provisions) and § 49.18(b) (confidentiality and indemnification agreement) as long as the following conditions are met: (i) The ADR executes an MOU or similar information sharing arrangement with the Commission; and (ii) the Commission, consistent with CEA section 21(c)(4)(A), designates the ADR to receive direct electronic access. As described in the SDR Final Rules, the Commission provided that these ADRs may be provided access to the swap data reported and maintained by SDRs without being subject to the notice and indemnification provisions of CEA sections 21(c)(7) and (d).[27]

Commission regulation 49.17(d)(3) of the Commission's regulations currently provides that an AFR with supervisory authority over an SDR registered with it pursuant to foreign law and/or regulation that is also registered with the Commission is not subject to the requirements of § 49.17(d) (application and notice provisions) and § 49.18(b) (confidentiality and indemnification agreement). As described in the SDR Final Rules and Interpretative Statement, the Commission believes that confidential swap data reported to, and maintained, by an SDR may be appropriately accessed by an AFR without the execution of a confidentiality and indemnification agreement when the AFR is acting in a regulatory capacity with respect to an SDR that is also registered with the AFR and with respect to data reported to such SDR pursuant to such AFR's regulatory regime.[28]

2. Proposed Amendments

With respect to domestic regulators with regulatory jurisdiction over an SDR, the Commission proposes to remove: (1) The reference to ''Appropriate Domestic Regulator'' in § 49.17(d)(2) and replace it with the term ''domestic regulator'' to clarify that all domestic regulators and not just ADRs would fall under § 49.17(d)(2); (2) subparagraph (i) to § 49.17(d)(2) (the information sharing arrangement condition) and (3) subparagraph (ii) to § 49.17(d)(2) (the direct electronic access condition). Although the Commission in the original part 49 rules adopted the information sharing and direct electronic access conditions so that ADRs would not be subject to the then-existing confidentiality and indemnification requirements, the Commission through experience with SDR swap data access believes an additional refinement of these rules is necessary in order to promote greater efficiency and cooperation among domestic regulators. Accordingly, the Commission submits that a domestic regulator that has regulatory jurisdiction

[26] 17 CFR 49.2(a)(5). CEA Section 1a(26) defines ''foreign futures authority'' as any foreign government, or any department, agency, governmental body, or regulatory organization empowered by a foreign government to administer or enforce a law, rule, or regulation as it relates to a futures or options matter, or any department or agency of a political subdivision of a foreign government empowered to administer or enforce a law, rule, or regulation as it relates to a futures or options matter. Section 723(a)(2) of the Dodd-Frank Act added section 2(d) to the CEA to provide that enumerated provisions, including CEA section 1a, apply to swaps.

[27] *See* SDR Final Rules at 54554.

[28] *Id. See also* Interpretative Statement at 65181; section 752 of the Dodd-Frank Act.

over an SDR registered with it pursuant to a separate statutory authority should be able to access SDR data reported to such SDR pursuant to such separate statutory authority irrespective of whether such domestic regulator has executed an MOU or similar information sharing arrangement with the Commission or been designated to receive direct electronic access by the Commission.[29]

In connection with foreign regulatory authorities that have supervisory authority over an SDR, the Commission proposes to (i) remove the reference to ''Appropriate Foreign Regulator'' in § 49.17(d)(3) and replace it with the term ''Foreign Regulator'' as defined in § 49.2 to clarify that all Foreign Regulators, not only those that have been determined ''appropriate'' by the Commission would fall under § 49.17(d)(3); and (ii) add qualifying language to § 49.17(d)(3) so that § 49.17(d)(3) applies not only to SDRs that are ''registered'' with the Foreign Regulator but also to those SDRs that are ''registered, recognized, or otherwise authorized'' by a foreign jurisdiction's regulatory regime, and where such swap data has been reported to the SDR pursuant to the Foreign Regulator's regulatory regime.[30]

As it was when adopting the SDR Final Rules, the Commission is mindful of the need to protect the confidentiality of swap data when such data is provided to another regulator. Under the proposal, the Commission believes that the proposed changes to § 49.17(d)(3) strike the appropriate balance in providing access to swap data consistent with the confidentiality protections set forth in the CEA.[31]

3. Request for Comment

The Commission requests comment on all aspects of amendments to § 49.17(d)(2) and (3).

C. Appropriateness Determination for Foreign Regulators and Non-enumerated Domestic Regulators: Proposed § 49.17(h) and Proposed Amendments to § 49.17(b)

1. The Current Rule

CEA section 21(c)(7) specifies U.S. entities to which swap data must be released by an SDR, provided certain prerequisites are satisfied. Because Congress has determined that access to SDR swap data by these entities is appropriate when the prerequisites are satisfied, no further access consideration by the Commission is necessary. These U.S. entities, along with others determined to be appropriate by the Commission pursuant to CEA section 21(c)(7)(E), are identified in § 49.17(b)(1) as ''Appropriate Domestic Regulators.'' The term ''Appropriate Domestic Regulator'' is also defined to include ''any other person the Commission deems appropriate.'' The current part 49 rules do not include a process for determining that a U.S. entity not specifically enumerated in § 49.17(b)(1) is an ''Appropriate Domestic Regulator.''

Under current § 49.17(b)(2)(i), in order for a Foreign Regulator[32] that does not have a current MOU with the Commission to be determined to be an ''Appropriate Foreign Regulator,''[33] it must file with the Commission an application in the form and manner specified by the Commission.[34] The application must provide sufficient facts and procedures to permit the Commission to analyze whether the Foreign Regulator's confidentiality procedures are appropriate and to satisfy the Commission that information provided by an SDR will not be disclosed by the Foreign Regulator except as permitted by CEA section 8(e).

2. The Proposed Amendments

The Commission proposes to eliminate the current filing requirements set forth in current § 49.17(b)(2)(i) and establish new filing requirements in proposed § 49.17(h). The Commission also proposes to include in § 49.17(h), CEA section 8-related confidentiality considerations and the ability for the Commission to revisit or reassess appropriateness determinations. The filing requirements proposed in new § 49.17(h) would apply to all foreign regulators regardless of whether a current MOU or similar arrangement with the Commission exists, and to any domestic regulator that is not an ADR enumerated in § 49.17(b)(1)(i)–(vi) (''Enumerated ADR''). Proposed § 49.17(h)(3) would specify two threshold requirements for a finding of appropriateness: (i) The requesting entity has in place appropriate safeguards to maintain the confidentiality of such swap data; and (ii) such entity is acting within the scope of its jurisdiction in seeking access to swap data maintained by an SDR. These requirements are necessary but may or may not be sufficient to support an appropriateness determination: The Commission proposes to evaluate each filing on a case-by-case basis with reference to these and other factors that the Commission may find germane to its determination. If the Commission finds on the basis of information submitted that access to SDR swap data is appropriate, the Commission would issue an order confirming the regulator's status as an ADR or AFR and setting forth any conditions or limitations on access consistent with the relevant statutory and regulatory requirements (the proposed ''Determination Order''). The Commission is also proposing, through § 49.17(h)(4), to be able to revisit, reassess, limit, suspend or revoke a previously issued Determination Order. The Commission believes it is necessary to be able to revisit an appropriateness determination, and potentially take one of the foregoing remedial actions, in order to be able to address situations that may arise subsequent to the determination, such as where an AFR or ADR violates the term of a Determination Order or fails to properly keep SDR swap data confidential.

3. The Factors Required for a Determination Order

a. Scope of Jurisdiction

CEA section 21(c)(7) directs SDRs to provide swap data to regulators ''on a confidential basis pursuant to section 8.''[35] The Commission interprets this provision to require consistency with CEA section 8(e)'s mandate that information may be furnished, on a confidential basis, only to other regulators acting within the scope of their jurisdiction. Accordingly, the Commission believes that an appropriateness determination must be

[29] The Commission's proposal is consistent with the principle previously set forth in its Interpretative Statement relating to the confidentiality and indemnification provisions of the CEA. In particular, the Commission stated ''that a foreign regulator's access to data from a registered SDR that is also registered, recognized, or otherwise authorized in a foreign jurisdiction's regulatory regime, where the data to be accessed has been reported pursuant to that [other] regulatory regime, [such access] will be dictated by that jurisdiction's regulatory regime and not by the CEA or Commission regulations.'' *See* Interpretative Statement at 65181.

[30] *Id.*

[31] *See* CEA section 21(c)(7); *see also* section 752 of the Dodd-Frank Act.

[32] The term ''Foreign Regulator'' is defined in § 49.2(a)(5) to mean a foreign futures authority as defined in CEA section 1(a)(26), foreign financial supervisors, foreign central banks and foreign ministries.

[33] No Foreign Regulators are enumerated in CEA section 21(c)(7) or specifically identified as Appropriate Foreign Regulators in § 49.17(b)(2).

[34] To date the Commission has not specified a form and manner for the application referenced in current § 49.17(b)(2)(i)(A).

[35] 7 U.S.C. 24(c)(7).

informed by reference to the regulator's jurisdiction and to the entity's legitimate regulatory or legal interest in the swap data to be sought.

In this regard, the Commission proposes to add to part 49 new § 49.17(h)(2), which would require an applicant seeking a Determination Order to provide the Commission sufficient information to permit the Commission to conclude that the applicant would be acting within the scope of its jurisdiction in seeking access to swap data maintained by an SDR. As part of this information, the Commission expects that an applicant would explain the relationship between its jurisdiction and its request for access to swap data maintained by SDRs, including an explanation of the applicant's need for particular swap data to carry out its regulatory mandate, legal authority or responsibility.

The Commission proposes in new § 49.17(h)(3) to specify that the Commission will not issue a Determination Order unless it is satisfied that the regulator is acting within the scope of its jurisdiction in seeking access to SDR swap data, and that any grant of access will be limited to swap data appropriate to the entity's regulatory mandate or legal authority. Each Determination Order would further require, as a condition of the appropriateness determination set forth therein, that a regulator that has received a Determination Order promptly notify the Commission, and each SDR from which it has received swap data, of any change to its jurisdiction that would relate to the swap data access requested.[36] As described in proposed § 49.17(d)(5), the Commission would be able to direct SDRs to limit, suspend or revoke the scope of an ADR's or AFR's SDR swap data access to reflect the new scope of its jurisdiction.[37] The Commission expects that this proposed limitation on access will reduce the risk of unauthorized or unnecessary disclosures because each appropriate regulator will have access to swap data only to the extent necessary to fulfill its jurisdictional mandate or regulatory responsibility.

b. Robust Confidentiality Safeguards

CEA section 21(c)(7) is explicit in requiring that SDRs make swap data available on a confidential basis pursuant to CEA section 8. Proposed § 49.17(h)(2) accordingly would require that the applicant submit to the Commission information sufficient to permit a determination that the applicant employs adequate confidentiality safeguards to ensure that swap data the applicant receives from an SDR will not be disclosed other than as permitted by the confidentiality arrangement required by § 49.18(a). The Commission anticipates that this would involve the Commission considering whether the applicant's confidentiality protocols, system safeguards and security compliance procedures can be expected to ensure the confidentiality of the swap data, and that the applicant has in place protections sufficient to prevent unauthorized intrusions into the systems that maintain the swap data. In this regard, the Commission would also expect to consider the applicant's processes for limiting internal access to swap data to those persons with a need to know, as well as how the swap data will be stored and whether the swap data will be segregated from other information.

It is the Commission's view that reliance on these factors strikes an appropriate balance between realizing the benefits of data access by regulators[38] and the obligation to protect confidential information in accordance with the dictates of CEA section 8(e), as incorporated by reference in CEA section 21(c)(7) and (d) through those sections' incorporation of CEA section 8. The Commission considers these factors essential to a determination of appropriateness. Other considerations, while not proposed to be codified in these proposed rules, may also contribute to the Commission's appropriateness analysis.

c. Additional Considerations

Although the Commission proposes to eliminate the current regulatory provision conferring AFR status on a foreign regulator with ''an existing [MOU] or other similar type of information sharing arrangement executed with the Commission . . .,'' [39] it nonetheless continues to believe that the existence of such an arrangement fosters a cooperative relationship and encourages the development of shared understandings related to regulatory responsibilities. Although not dispositive, indications of a strong cooperative relationship with another authority, as established by the existence of such an arrangement and the Commission's experience working with such authority in finalizing and administering the arrangement, would likely be a factor supporting an appropriateness determination. Also, a failure to cooperate fully or to comply with the terms of an existing or prior arrangement might be expected to weigh against an appropriateness determination.

Similarly, when assessing appropriateness, the Commission expects to consider whether it receives access to swap data maintained by trade repositories in that regulator's jurisdiction. The Commission is mindful of the Dodd-Frank Act's encouragement of coordination and cooperation with foreign regulatory authorities.[40] The Commission believes that increased data access by regulators has the potential to provide the Commission and other authorities with more complete information with which to monitor risk exposures and should be expected to promote global market stability through enhanced regulatory transparency. Accordingly, Commission access to swap data maintained by trade repositories in such other regulator's jurisdiction, an arrangement prospectively to assist the Commission in obtaining data from other jurisdictions, and a history of assistance from a foreign regulator, would be viewed favorably by the Commission in considering appropriateness.

d. Other Matters Regarding the Determination Order Process

The Commission preliminarily believes that the Determination Order process and factors discussed above offer a reasonable approach to providing requesting entities access to SDR swap data based on clearly articulated factors and any additional considerations or circumstances the Commission may deem relevant on a case-by-case basis. Both the required factors and the additional considerations support the mandate of CEA sections 8, 21(c)(7) and 21(d) and are consistent with the express intent of Congress that the Commission coordinate and cooperate with foreign regulatory authorities on matters related to the regulation of swaps. Through the issuance of Determination Orders, the Commission will be able to impose appropriate conditions or restrictions on an entity's access to SDR swap data such that the entity's access is linked to its jurisdictional scope. Pursuant to proposed § 49.17(h)(4), the Commission

[36] The form of confidentiality arrangement set forth in proposed Appendix B to part 49 also would require such notices.

[37] As is relevant here, proposed § 49.17(d)(5) would require that each SDR ''shall, as directed by the Commission, limit, suspend or revoke . . . such access should the Commission . . . direct the [SDR] to limit, suspend or revoke such access.''

[38] *See* CEA section 21(c)(7); *see also* Section 752 of the Dodd-Frank Act (recognizing the goal of effective and consistent global regulation of swaps).

[39] 17 CFR 49.17(b)(2).

[40] *See* Dodd-Frank Act section 752, *supra.*

may also, in its discretion, issue a Determination Order of limited duration, and may otherwise limit, suspend or revoke such an order if the entity fails to comply with its terms or the terms of the statutory confidentiality arrangements. The Commission would expect SDRs to take into account any conditions or restrictions contained in a Determination Order when providing access to swap data to an ADR or AFR.

The Commission further believes it is appropriate to make the process and factors proposed in § 49.17(h) applicable to any domestic entities that are not enumerated as ADRs in § 49.17(b)(1)(i)–(vi), as scope of jurisdiction and confidentiality considerations are equally applicable to U.S. entities, and has drafted proposed § 49.17(h) accordingly.

e. Request for Comment

The Commission requests comment on all aspects of proposed § 49.17(h), particularly on whether the proposed regulatory and other factors are sufficient to determine whether access to SDR swap data is appropriate.

4. Proposed Amendments to § 49.17(d)(4)—SDR Notice and Verification Obligations

CEA section 21(c)(7) requires each SDR to notify the Commission of a swap data request received from an ADR or AFR.[41] Currently, this statutory requirement is implemented in § 49.17(d)(4)(i), which provides that an SDR must promptly notify the Commission regarding ''any'' request received by an ADR or AFR to gain access to swap data maintained by the SDR.

To reduce the burden on SDRs and provide greater operational efficiency consistent with the intent of CEA section 21(c)(7), the Commission is proposing to amend the SDR notification requirement in current § 49.17(d)(4)(i) to require an SDR to notify the Commission (i) at the time that it receives the first request for swap data from a particular ADR or AFR and (ii) at any time that a request does not comport with the scope of the ADR's or AFR's jurisdiction, as described in the confidentiality arrangement required by proposed § 49.18(a). The proposed amendment would make the notification applicable only to the initial request for swap data and any subsequent request at variance with the ADR's or AFR's scope of jurisdiction: On receiving either such request for data by a particular ADR or AFR, the SDR would be required to provide prompt electronic notification to the Commission of the request, in a format specified by the Secretary of the Commission, pursuant to proposed § 49.17(d)(4)(ii). The SDR would be required to keep such notification and related requests confidential consistent with the requirements of CEA sections 21(c)(6) and (7) and related regulatory requirements set forth in §§ 49.16 and 49.17.

The Commission believes that the proposed approach to SDR notification supports the Commission's need to be aware of who is able to access SDR swap data and what data has been accessed, while eliminating potentially costly, unwieldy and inefficient notice of every swap data request. Under the proposal, the Commission would be notified that a particular ADR or AFR has requested access to SDR swap data and will be able to examine records of the ADR's or AFR's individual swap data requests, and the swap data provided, as it deems necessary.[42]

The Commission also proposes to amend § 49.17(d)(4) by adding new subsection (iii) to require each SDR that receives a request for access to its swap data from an ADR or AFR to verify, prior to providing such access, that the request is consistent with the scope of the ADR's or AFR's jurisdiction, as described in the confidentiality arrangement required by proposed § 49.18(a).[43] This verification would need to incorporate any subsequent changes thereto. The Commission is also proposing to require an ADR or AFR that has executed a confidentiality arrangement with the Commission pursuant to § 49.18(a) and provided such confidentiality arrangement to one or more SDRs to notify the Commission and each such SDR of any change to such ADR's or AFR's scope of jurisdiction as described in such confidentiality arrangement. Additionally, the proposal would enable the Commission to direct a SDR to suspend, limit, or revoke access to swap data maintained by such SDR based on any such change to such ADR's or AFR's scope of jurisdiction, and that, if so directed, such SDR shall so suspend, limit, or revoke such access.

As proposed, § 49.17(d)(4)(iv) would require SDR verification only once with respect to a request for ongoing or recurring access to particular data, provided that there has not been a change in the scope of the regulator's jurisdiction (in which case an SDR would need to verify anew that the swap data requested is within the scope of the requesting ADR's or AFR's jurisdiction). The Commission recognizes that the proposed requirement imposes a burden on SDRs; however, it notes that SDRs are obliged by CEA section 21(c)(7) to provide access ''pursuant to section 8'' of the CEA, which requires a jurisdictional nexus to the information requested. In these circumstances, the Commission believes SDRs must take a role in ensuring compliance with these statutory restrictions.

5. Proposed New § 49.17(i)—Delegation of Authority

In the interests of expedience and efficiency in determining appropriateness of access by regulators, the Commission proposes to delegate all functions reserved to the Commission in § 49.17 to the Director of the Division of Market Oversight and to such members of the Commission's staff acting under his or her direction as he or she may designate from time to time.

6. Request for Comment

The Commission requests comment on all aspects of the proposed amendments to § 49.17, and particularly invites comments on:

1. Whether commenters believe there are more cost-effective methods of notification and recordkeeping that would still provide the Commission with access to the information necessary for it to perform its regulatory functions in a manner consistent with CEA section 21(c)(7); and

2. Whether a phase-in process is necessary to decrease the likelihood that a large number of new demands on SDRs' systems from ADRs and AFRs seeking access to swap data will decrease SDR systems reliability, efficiency or speed.

D. CEA Section 21(d) Confidentiality Agreements: Proposed Amendments to § 49.18

CEA section 21(d), as amended, requires that, prior to providing swap data to a 21(c)(7) entity, an SDR ''shall

[41] *See* CEA section 21(c)(7), 7 U.S.C. 24a(c)(7).

[42] Consistent with the current recordkeeping requirements for SDRs in § 45.2(f), SDRs are required to maintain records of all information related to the initial and all subsequent requests for swap data from ADRs/AFRs. Appropriate records would include, at a minimum, the identity of the ADR/AFR accessing the swap data; the date, time and substance of the request for access; confirmation that the request is consistent with the scope of the regulator's jurisdiction; and copies of all swap data provided in connection with the request for access. Pursuant to CEA section 1.31, SDRs are required to maintain such records for a period of no less than five years after the date of such request and must provide this information to the Commission upon request.

[43] The scope of jurisdiction would be described in Exhibit A to the form of confidentiality arrangement set forth in proposed Appendix B to part 49.

receive a written agreement from each entity stating that the entity shall abide by the confidentiality requirements described in CEA section 8 relating to the information on swap transactions that is provided.'' [44] As originally adopted, the part 49 rules required that such confidentiality agreements be executed between the SDR and the 21(c)(7) entity.[45] The Commission proposes to add a new § 49.18(a) to require that a confidentiality arrangement be executed by and between the ADR or AFR and the Commission.[46] Once the ADR or AFR and the Commission have executed a confidentiality arrangement, the ADR or AFR may present the executed document to any SDR from which it requests access to swap data in satisfaction of CEA section 21(d).

The Commission recognizes that its proposed amendments to § 49.18 represent a change in approach from the part 49 rules as adopted. Based on its experience with SDRs and swap data access since the adoption of part 49 in 2011, and further consideration of the relationship between CEA sections 21 and 8, however, the Commission believes this change is consistent with the statutory framework established by Congress in CEA section 21(d) and 21(c)(7). Moreover, in the Commission's view a confidentiality arrangement between the Commission and the regulator more directly supports the confidentiality mandate of CEA section 8. Finally, the Commission believes that the proposed requirement will promote regulatory efficiency and reduce costs to SDRs, ADRs and AFRs while ensuring the confidentiality of SDR swap data by giving full effect to the strictures of CEA section 8(e).

To further promote regulatory efficiency, the Commission is proposing to provide a form of confidentiality arrangement as Appendix B to Part 49, for use by ADRs and AFRs. The Commission would expect its use by ADRs and AFRs to reduce significantly the need for these entities to negotiate separate confidentiality arrangements with the Commission. This proposed change also would eliminate the costs and potential inefficiencies to SDRs inherent in requiring them to negotiate confidentiality agreements with a potentially large number of ADRs and AFRs. Finally, while its use is not required, the Commission believes that the proposed form of confidentiality arrangement in Appendix B to Part 49 can be expected to conserve its limited staff resources by eliminating in many cases the need for the Commission and its staff to develop individualized confidentiality arrangements with multiple ADRs or AFRs seeking access to SDR swap data.

1. Current § 49.18

The Commission adopted § 49.18 to implement CEA section 21(d)(1) and (2) as originally enacted. Accordingly, the current rule sets forth the obligation for SDRs to execute a ''Confidentiality and Indemnification Agreement'' before providing SDR swap data to an ADR or AFR. Congress has repealed the indemnification requirement, and the Commission proposes to make conforming amendments to § 49.18 to remove references to indemnification.

Separately, the Commission is proposing revisions to § 49.18 to modify the substantive requirements of the confidentiality arrangement and the parties to the confidentiality arrangement, to establish conditions for restricting or revoking access to SDR swap data, and to clarify the confidentiality obligations of ADRs and AFRs with regulatory responsibility over an SDR.

2. Proposed Amendments to § 49.18(a)—Confidentiality Arrangement Required Prior to Disclosure of Swap Data

The Commission proposes to remove current § 49.18(a) [47] and add a new § 49.18(a) requiring that an SDR receive a confidentiality arrangement, executed by the Commission and the ADR or AFR seeking access to the swap data maintained by the SDR, that, at a minimum, contains all elements described in proposed § 49.18(b).

3. Proposed Amendments to § 49.18(b)—Required Elements of the Confidentiality Arrangement

The Commission proposes to replace the text of current § 49.18(b) [48] with a requirement that the confidentiality arrangement required pursuant to § 49.18(a) shall, at a minimum, include all elements included in the form of confidentiality arrangement set forth in proposed Appendix B to part 49. Paragraph 5 of the confidentiality arrangement would require the ADR or AFR to undertake that it will be acting within the scope of its jurisdiction each time it requests swap data from an SDR, and to promptly notify the Commission and each relevant SDR if the scope of the ADR's or AFR's jurisdiction changes. Paragraph 5 of the confidentiality arrangement also would require ADRs and AFRs to employ procedures to maintain the confidentiality of swap data and any information and analyses derived therefrom (the swap data and such information are referred to collectively as the ''Confidential Information'').

Paragraph 6 of the confidentiality arrangement would require ADR and AFR signatories to employ the following safeguards to maintain the confidentiality of the Confidential Information:

- To the maximum extent practicable, maintain Confidential Information received from SDRs separately from other data and information; [49]
- Protect such Confidential Information from misappropriation and misuse; [50]
- Ensure that only ADR or AFR personnel with a need to access particular Confidential Information to perform their job functions related to such Confidential Information have access thereto and that such access is

[44] *See* CEA section 21(d). 7 U.S.C. 24a(d) as amended by the FAST Act.

[45] *See* current § 49.17(d)(6) and 49.18(b).

[46] *See* proposed § 49.18(a) (requiring that an SDR received ''an executed confidentiality arrangement between the Commission and the [ADR] or [AFR] . . . .''). The Commission notes that the SEC has implemented a similar approach with respect to the execution of the required agreement. *See* Access to Data Obtained by Security-Based Swap Data Repositories, 81 FR 60585 at 60591 and 60608 (Sept. 2, 2016) (SEC rule 13n–4(b)(10), 17 CFR 240.13n–4(b)(10), and associated preamble text).

[47] Current § 49.18(a) describes the purpose of § 49.18.

[48] Current § 49.18(b) requires an SDR to receive a confidentiality agreement from a 21(c)(7) entity before granting the 21(c)(7) entity access to swap data maintained by the SDR. As discussed above, the Commission proposes to address in proposed § 49.18(a) the confidentiality arrangement condition to swap data access.

[49] ADRs and AFRs seeking useful guidance for Confidential Information segregation can look to the data segregation standards contained in the National Institute of Standards and Technology (''NIST'') Special Publication 800–53, Revision 4, Security and Privacy Controls for Federal Information Systems and Organizations (April 2013), available at *http://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-53r4.pdf* or in the Federal Information Security Management Act of 2002, as amended (''FISMA''). 44 U.S.C. 3541. As the Commission has previously noted in a different context, FISMA ''is a source of cybersecurity best practices and also establishes legal requirements for federal government agencies . . . .'' System Safeguards Testing Requirements, 80 FR 80139, 80142 (Dec. 23, 2015) (''Registered Entity Cyber NPRM''). The Commission recently adopted final rules based on the Registered Entity Cyber NPRM. *See* System Safeguards Testing Requirements, 81 FR 64271 (Sept. 19, 2016) (''Final Registered Entity Cyber Rules'').

[50] This should include cybersecurity measures. As the Commission detailed in a different context in the Final Registered Entity Cyber Rules, ''cyber threats to the financial sector continue to expand.'' *See* Final Registered Entity Cyber Rules at 64272. *See also* System also Safeguards Testing Requirements for Derivatives Clearing Organizations, 80 FR 80113, 80114–80115 (Dec. 23, 2015) (describing escalating and evolving cybersecurity threats); Registered Entity Cyber NPRM at 80140–80141 (Dec. 23, 2015) (describing, inter alia, the current cybersecurity threat environment).

permitted only to the minimum extent necessary to perform such job functions; [51]

- Except as provided in paragraph 8 of the confidentiality arrangement, prevent disclosure of Confidential Information unless sufficiently aggregated and anonymized to prevent identification, through disaggregation or otherwise, of a market participant's business transactions, trade data, market positions, customers or counterparties; [52]
- Prohibit the use of Confidential Information by ADR or AFR personnel for any improper purpose; and
- Monitor compliance with the confidentiality safeguards and ensure prompt notification of the CFTC and each relevant SDR of any violation of the safeguards or failure to fulfill the terms of the confidentiality arrangement.

Paragraph 7 of the confidentiality arrangement also would preclude, with limited exceptions, ADRs and AFRs from disclosing any Confidential Information, via onward sharing [53] or otherwise. The only permitted disclosures would be (1) in actions, adjudicatory actions or proceedings, as applicable, described in CEA section 8(e), the operative language of which is included in paragraph 8 of the confidentiality arrangement and (2) aggregated SDR swap data that is anonymized to prevent identification (through disaggregation or otherwise) of a market participant's business transactions, trade data, market positions, customers or counterparties.

Paragraph 9 of the confidentiality arrangement contains certain provisions requiring ADRs and AFRs to notify the Commission, and take certain protective actions, prior to disclosing SDR swap data even where an ADR or AFR receives a legally enforceable demand to disclose Confidential Information.

Paragraph 11 of the confidentiality arrangement would require ADRs and AFRs accessing swap data from SDRs to comply with all security-related requirements imposed by SDRs in connection with access to such swap data, as such requirements may be revised from time to time. Because, subject to specified conditions, CEA sections 21(c)(7) and 21(d) require SDRs to provide ADRs and AFRs access to swap data, the Commission expects that SDRs will not impose security-related access requirements beyond those that are necessary to ensure the privacy and confidentiality of SDR swap data. The Commission further expects that SDRs' security-related access requirements for ADRs and AFRs would be akin, if not identical, to the requirements SDRs impose on others (*e.g.,* the Commission, reporting counterparties) to whom SDRs provide swap data access.

To further protect the confidentiality of SDR swap data, paragraph 12 of the confidentiality arrangement would require ADR and AFR signatories to promptly destroy all Confidential Information for which they no longer have a need or which no longer falls within their scope of jurisdiction.[54] While it may be the case that ADRs or AFRs will use some or all Confidential Information in perpetuity, if they no longer have a need for Confidential Information, they should destroy such Confidential Information to prevent its misuse. Similarly, it is possible that an SDR may inadvertently provide swap data outside the scope of an ADR or AFR's jurisdiction. In such circumstances, such swap data also should be destroyed immediately after the ADR or AFR discovers that such swap data is outside the scope of its jurisdiction.

The proposed rule would require that the confidentiality arrangement must include an exhibit (Exhibit A) specifying the scope of jurisdiction of the ADR or AFR signatory. If such signatory is not an Enumerated ADR, the ADR or AFR would attach the Commission Determination Order described in § 49.17(h) as Exhibit A to the confidentiality arrangement. If such signatory is an Enumerated ADR, it would attach, as Exhibit A to the confidentiality arrangement, a detailed description of its scope of jurisdiction as it relates to the swap data maintained by SDRs that the ADR would seek pursuant to the confidentiality arrangement. This requirement is designed to assist SDRs in determining that the scope of each swap data request is within the scope of the requesting entity's jurisdiction.

While the Commission would impose certain obligations on ADRs and AFRs, with respect to swap data received from an SDR, in the proposed confidentiality arrangement, ADRs and AFRs retain the discretion to determine how to comply with those obligations. Additionally, to the extent that neither the proposal nor commenters address a relevant confidentiality issue that arises after an ADR or AFR commences accessing swap data, the Commission expects affected ADRs and AFRs to take appropriate measures to safeguard affected swap data and advise the Commission of such issue promptly so that the Commission may consider appropriate action.

4. Removal of § 49.18(c)—ADRs and AFRs With Regulatory Responsibility Over an SDR

The Commission proposes to remove current § 49.18(c), which provides that the indemnification and confidentiality requirements established in § 49.18(b) do not apply to certain ADRs and AFRs with regulatory jurisdiction or supervisory responsibilities over an SDR, but requires such regulators to comply with CEA section 8 and ''any other relevant statutory confidentiality authorities.'' As noted above in section II.B. relating to § 49.17(d)(2) and (3), the Commission believes that those domestic and foreign regulators that have regulatory responsibility over an

[51] One basic principle of data security is that only those with a need to access data to perform their work should be granted access to such data. *See, e.g.,* Framework for Improving Critical Infrastructure Cybersecurity at 23 (Feb. 12, 2014), available at *http://www.nist.gov/cyberframework/upload/cybersecurity-framework-021214.pdf* (characterizing the ''Protect'' element of a core cybersecurity framework as one where ''[a]ccess to assets and associated facilities is limited to authorized users, processes, or devices, and to authorized activities and transactions.'').

[52] The Commission understands that ADRs and AFRs may want to use aggregated and anonymized information derived from SDR swap data in analyses that may be made public. *Cf.* U.S. Gov't Accountability Office, GAO–16–175, Financial Regulation: Complex and Fragmented Structure Could Be Streamlined To Improve Effectiveness 71–75 (2016) (''GAO Report''), available at *http://www.gao.gov/assets/680/675400.pdf* (discussing the OFR's Financial Stability Monitor and related confidentiality issues and protections surrounding sharing aggregated and disaggregated information provided by other agencies). The Commission believes that, when properly aggregated and anonymized, information derived from SDR swap data generally can be disclosed without violating the requirement in CEA section 21(d) that a recipient of swap data agree, with respect to the information on swap transactions that is provided by an SDR, to abide by the confidentiality requirements described in CEA section 8. *Cf.* § 49.16(c) (stating that ''[s]ubject to Section 8 of the Act, [SDRs] may disclose aggregated swap data on a voluntary basis or as requested[ ] in the form and manner[ ] prescribed by the Commission.''); SDR Final Rules at 54551 (stating that ''the Commission believes that it is permissible under the Dodd-Frank Act and part 49 of the Commission's regulations for an SDR to disclose, for non-commercial purposes, data on an aggregated basis such that the disclosed data reasonably cannot be attributed to individual transactions or market participants.''). In certain cases, however, even aggregated information may enable a reader to determine a market participant's business transactions, trade secrets (*e.g.,* algorithms) or positions. Thus, the proposed form of confidentiality arrangement requires ADRs and AFRs to implement safeguards designed to appropriately limit the use of information that has been aggregated from SDR swap data and to prevent disaggregation or other derivations of a market participant's business transactions, trade data or market positions. ADRs and AFRs can look to § 43.4(d)(1), (d)(4) and (g) for guidance on anonymization principles.

[53] The Commission interprets the restrictions on disclosure contained in CEA section 8 that are incorporated in CEA section 21(c)(7) and 21(d) as prohibiting an ADR or AFR from onward sharing swap data it obtains from an SDR.

[54] Paragraph 12 of the confidentiality arrangement would also require ADR and AFR signatories to certify to the CFTC, upon request, that they have destroyed such swap data.

SDR should be able to access SDR data reported to such SDR pursuant to such other regulator's regulatory regime, without limitation. Therefore, the Commission submits that § 49.18(c) is not appropriate because it requires these domestic and foreign regulators with regulatory responsibility over SDRs to comply with CEA section 8 and any other relevant statutory confidentiality authorities. In addition, § 49.17(d)(2) and (3) already provide that the confidentiality and indemnification requirements of § 49.18(b) do not apply to these domestic and foreign regulators with regulatory responsibility over SDRs. However, insofar as a regulator sought swap data that was not reported to the SDR pursuant to that regulator's regulatory regime, the exclusions set forth within § 49.17(d)(2) and (3) would not apply.

The Commission accordingly submits that current § 49.18(c) is inappropriate and unnecessary, and therefore, should be eliminated.

5. Failure to Fulfill the Terms of a Confidentiality Arrangement: Proposed § 49.18(c) and (d)

The Commission proposes in new § 49.18(c) to require SDRs to promptly report to the Commission any known failure to fulfill the terms of a confidentiality arrangement that they receive pursuant to § 49.18(a). Proposed new § 49.18(d) would authorize the Commission to direct an SDR to limit, suspend or revoke an AFR's or ADR's access to swap data, if the Commission determines that the AFR or ADR has failed to fulfill the terms of its confidentiality arrangement with the Commission.[55]

6. Proposed § 49.18(e)—Delegation of Authority

The Commission is proposing to add § 49.18(e)(1) to delegate to the Director of the Division of Market Oversight, and to such staff acting under his or her direction as he or she may designate from time to time, all functions reserved to the Commission in § 49.18. Proposed § 49.18(e)(2) would reserve to the Director of the Division of Market Oversight the authority to submit to the Commission for its consideration any matter which has been delegated to the Director under proposed § 49.18(e)(1). The Commission proposes in § 49.18(e)(3) to expressly permit the Commission, at its election, to exercise the authority delegated to the Director of the Division of Market Oversight under proposed § 49.18(e)(1).

This delegation is intended to conserve Commission resources and increase the effectiveness and efficiency of the Commission's oversight and supervision of SDR swap data access. The Commission anticipates that the delegation of authority will help facilitate timely access to SDR swap data by ADRs and AFRs consistent with the requirements set forth in part 49 of the Commission's regulations. However, the Division of Market Oversight may submit matters to the Commission for its consideration, as it deems appropriate.

7. Conforming Changes

As a result of the FAST Act Amendments, the Commission proposes conforming changes to § 49.17(d)(6), to delete references to an Indemnification Agreement. As a result of the proposed changes to § 49.18, and in particular, § 49.18(a), the Commission proposes conforming changes to § 49.22(d)(4) relating to chief compliance officer compliance responsibilities and duties so that the appropriate section reflecting the confidentiality arrangement is referenced.

8. Request for Comment

1. The Commission requests comment on all aspects of the proposed amendments to § 49.18. Commenters are particularly invited to address the proposed amendments to § 49.18 relating to the confidentiality provisions of CEA sections 21(c)(7) and 21(d), whether the Commission should prescribe specific processes to govern ADR and AFR requests for swap data access from an SDR; and whether the Commission should prescribe a process to govern an SDR's treatment of requests for swap data access.

2. In addition, commenters are invited to address the proposed rules implementing the notification requirement. In this regard, is there an alternative to requiring SDRs to maintain copies of all data they provide in connection with the data access provisions that would still permit the Commission to assess the SDR's ongoing compliance with those provisions? For example, are alternative approaches available such that the Commission need not require SDRs to maintain actual copies of all information provided pursuant to the data access provisions? Would such an alternative approach reduce the burdens on SDRs while still permitting the Commission to assess ongoing compliance?

E. Other Changes

In addition to those changes discussed throughout this release, the Commission is proposing other changes to part 49, including a number of ministerial changes. The Commission proposes to amend § 49.9(a)(9) to change the reference in § 49.9(a)(9) from ''certain appropriate domestic regulators and foreign regulators'' to ''Appropriate Domestic Regulators and Appropriate Foreign Regulators'' to make clear that an SDR is required to provide access to swap data, pursuant to § 49.17, only to ADRs and AFRs. The Commission is proposing to make a number of other changes to part 49 to more consistently refer to the defined term ''swap data''. The Commission is proposing to modify the references in existing §§ 49.9(a)(9) and 49.17(b)(2)(i) to ''swap data or information''; the reference in existing § 49.17(d)(4)(i) to ''swaps transaction data''; and the reference in existing § 49.17(d)(6) to ''requested data,'' to be references to ''swap data'' as that term is defined in § 49.2(a)(15). The Commission is proposing these changes to eliminate confusion and to conform part 49 to the FAST Act's amendment of CEA section 21(c)(7) to refer to ''swap data.''

The Commission is also proposing to replace the reference in § 49.17(a) to ''swaps data'' with a reference to ''swap data'' and to replace the reference in § 49.17(a) to ''Regulation'' with a reference to ''§ 49.17'' to match the format of the reference in § 49.17(b). The Commission does not intend to effect any substantive changes with these proposed amendments.

The Commission is proposing to change the references to ''swap transaction data'' and ''swaps transaction data'' in § 49.17(c)(2) and 49.17(c)(3) to ''swap data'' as defined in § 49.2(a)(15). The Commission is also proposing to change the references to ''data'' in § 49.17(d)(5), (d)(6), (e), and (e)(1) to ''swap data'' in order to clarify the Commission's intent to refer to ''swap data'' within the meaning of § 49.2(a)(15). For the same reason, the Commission is also proposing to add ''swap data and'' before ''information'' in § 49.17(e)(2) to conform it to § 49.17(e)(1), as proposed to be amended.[56] The Commission also

[55] Proposed § 49.18(d) provides that, if an ADR or AFR fails to fulfill the terms of a confidentiality arrangement under paragraph (a) of proposed § 49.18, the Commission may direct each registered SDR to limit, suspend or revoke the ADR's or AFR's access to swap data held by the SDR Similarly, proposed § 49.17(d)(5) would require an SDR, as directed by the Commission, to limit, suspend or revoke an ADR's or AFR's swap data access should the Commission revoke the appropriateness determination for such ADR or AFR or otherwise direct the SDR to suspend or revoke such access.

[56] Although § 49.17(e) uses the terms ''data'' and ''swap data'' interchangeably, the Commission intended those paragraphs to reference the definition of ''swap data'' and, consequently, believes that these do not represent a change to the Commission's original intent in promulgating

proposes to add the term ''and information'' after the term ''swap data'' in the second sentence of § 49.17(e) so that such sentence is consistent with the first sentence of § 49.17(e), which permits access by third parties to both swap data and information maintained by a registered SDR, subject to certain conditions.

In § 49.17(f)(2), the Commission is proposing to change both references to ''[d]ata and information'' to ''[S]wap data and information'' in order to clarify, in each case, that the intended reference is to ''swap data'' as defined in § 49.2(a)(15).

In addition to those changes related to references to swap data, the Commission is also proposing to amend § 49.17(b)(1)(vii) to change ''[a]ny other person the Commission deems appropriate[ ]'' to ''[a]ny other person the Commission determines to be appropriate pursuant to the process set forth in § 49.17(h)'' to match the language in CEA section 21(c)(7).

Commission regulation 49.17(f)(1) currently states, ''Access of swap data maintained by the registered swap data repository to market participants is generally prohibited.'' The Commission is proposing to amend § 49.17(f)(1) to state, ''Access by market participants to swap data maintained by the registered swap data repository is prohibited other than as set forth in § 49.17(f)(2)'' in order to clarify its meaning. The Commission does not intend this to be a substantive change to § 49.17(f)(1).

Finally, the Commission is proposing several minor clarifying changes to § 49.18(b).[57] These changes include replacing ''the swap data'' with ''swap data''; replacing the ''with any Appropriate Domestic Regulator or Appropriate Foreign Regulator'' reference with ''to any Appropriate Domestic Regulator or Appropriate Foreign Regulator''; and adding ''each'' before ''as defined in § 49.17(b)'' to reflect that both ''Appropriate Domestic Regulator'' and ''Appropriate Foreign Regulator'' are defined terms in § 49.17(b).

III. Request for Comment

In addition to the specific questions set forth in various sections above, the Commission requests comment on all aspects of the proposal, and particularly invites comment on the questions set forth below.

(1) What, if any, impediments exist to accurately and cost-effectively determining whether swap data access requests are within the scope of an ADR's/AFR's jurisdiction?

(2) Are there any particular elements the Commission has proposed to include in the confidentiality arrangement that are unnecessary? Has the Commission omitted particular element(s) that should be included in a confidentiality arrangement?

(3) Do SDRs maintain swap data in a manner that permits accurate reproduction at a later date of the results of an ADR's/AFR's request for swap data? If so, is it necessary for the Commission to require that SDRs maintain records of the results of such requests, as opposed to merely maintaining the details of the request?

IV. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA'') requires federal agencies, in promulgating rules, to consider the impact of those rules on small entities.[58] The rules proposed herein will have a direct effect on the operations of SDRs and certain domestic and foreign regulators seeking access to swap data reported to, and maintained, by SDRs.

The Commission has previously established certain definitions of ''small entities'' to be used by the Commission in evaluating the impact of its rules on small entities in accordance with the RFA.[59] The Commission has previously determined that SDRs are not small entities for purpose of the RFA.[60] For purposes of the Regulatory Flexibility Act, the definition of ''small entity'' also encompasses ''small governmental jurisdictions,'' which in relevant part means governments of locales with a population of less than fifty thousand.[61] Although the Commission anticipates that this proposal may be expected to have an economic impact on various governmental entities that access data pursuant to Dodd-Frank's data access provisions, the Commission does not anticipate that any of those governmental entities would be small governmental jurisdictions. Therefore, the Commission does not believe that this proposal will have a significant economic impact on a substantial number of small entities. Therefore, the Chairman, on behalf of the Commission, pursuant to 5 U.S.C. 605(b), hereby certifies that the proposed rules will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The proposed amendments to part 49 would result in new ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995 (''PRA'').[62] 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 Office of Management and Budget (''OMB'') control number. The OMB control number for the information collection associated with part 49 swap reporting is 3038–0086.[63] The Commission is seeking to revise Information Collection 3038–0086 because the rule amendments proposed herein will impose information collection requirements that require approval from OMB under the PRA. The Commission is therefore submitting this proposal to OMB for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11.

1. Summary of the Proposed Requirements

The proposed modifications to part 49 would require SDRs to make swap data available to requesting entities if certain conditions are satisfied. These conditions include the requesting entity executing a confidentiality arrangement and, in some cases, receiving a determination order from the Commission that it is an appropriate entity to receive SDR swap data. The proposed modifications would also require SDRs to report failures to fulfill the terms of confidentiality arrangements to the Commission.

2. Collection of Information

Currently, OMB Control Number 3038–0086 sets out burden estimates relating to a broad range of SDR obligations associated with registration requirements, reporting requirements, recordkeeping requirements, and disclosure requirements. Where the information collection associated with those obligations would be modified by this proposed rule, the Commission is proposing to revise Information

§ 49.17(e). However, the term ''swap data'' is narrower than the terms ''data'' and ''information.'' Consequently, changing ''data'' to ''swap data'' arguably would narrow the scope of the confidentiality procedures and confidentiality arrangement required by § 49.17(e)(1) and (2).

[57] These proposed changes appear in proposed § 49.18(a).

[58] *See* 5 U.S.C. 601 *et seq.*

[59] *See* Policy Statement and Establishment of ''Small Entities'' for purposes of the Regulatory Flexibility Act, 47 FR 18618 (Apr. 30, 1982) at 18618–21.

[60] *See* Part 49 Adopting Release at 54575 and Notice of Proposed Rulemaking: Swap Data Repositories, 75 FR 80898 (Dec. 23, 2010) at 80926.

[61] 5 U.S.C. 601(5), (6).

[62] 44 U.S.C. 3501 *et seq.*

[63] *See* OMB Control Number 3038–0086 (''Information Collection 3038–0086''). The most recent revision to OMB Control Number 3038–0086 was approved November 30, 2015 and is available at: *http://www.reginfo.gov/public/do/PRAOMBHistory?ombControlNumber=3038–0086.*

Collection 3038–0086 accordingly. To the extent the proposed modifications to part 49 introduce new information collections that were not previously incorporated into Information Collection 3038–0086, the Commission is proposing to revise Information Collection 3038–0086 to account for the new information collections. Finally, many of the information collections discussed in Information Collection 3038–0086 are not implicated or modified by the Commission's proposed revisions to part 49 in this release. The Commission, therefore, is not proposing to revise the estimated burdens associated with such information collections. New or revised information collections contained in these proposed revisions to part 49 will affect SDRs as well as entities that request access to SDR swap data pursuant to these provisions.

As discussed above, the proposed modifications to part 49 set out in this release are intended to provide a process by which other authorities may obtain access to SDR swap data. The information collections associated with this process are intended to ensure that SDR swap data is only accessed by appropriate entities and that the confidentiality of any accessed SDR swap data is adequately protected. The ultimate result of this process is intended to provide other authorities with information to assist with the oversight of the global swaps market and market participants.

ADR/AFRs. As discussed throughout this release, certain conditions must be satisfied before a requesting entity is permitted to access SDR swap data. These conditions may implicate various PRA collections and burdens as discussed below.

Pursuant to § 49.18(a), every requesting entity seeking access to SDR swap data must execute a confidentiality arrangement with the Commission prior to receiving access. This requirement applies to both those entities that are specifically enumerated as appropriate in § 49.17(b)(1) and those entities that require a determination from the Commission that they are appropriate entities to receive access to SDR swap data, regardless of whether the requesting entity is a domestic or foreign entity.

In addition to executing a confidentiality arrangement, requesting entities that are not Enumerated ADRs will be required to seek a Determination Order from the Commission to have access to SDR swap data. Such Determination Orders will describe SDR swap data that is appropriate for the entity to access, based on the requesting entity's scope of jurisdiction. For Enumerated ADRs, the Commission is proposing to require that the confidentiality arrangement describe the requesting entity's scope of jurisdiction. The Commission believes the use of the form of confidentiality arrangement set out in Appendix B to part 49 will provide an efficient means to satisfy the requirements of § 49.18(a).

The Commission, for PRA purposes, believes that it is reasonable to assume that 300 total entities will seek access to SDR swap data. This estimate is based on the Commission's experience in receiving data requests from other regulators and its experience in coordinating and cooperating with other regulators.[64] For PRA purposes, the Commission assumes there are four SDRs, which is the number of SDRs that are provisionally registered with the Commission. As the confidentiality arrangement will be between the ADR or AFR and the Commission and delivered to the SDR, AFRs and ADRs need not execute a separate confidentiality arrangement for each SDR. Accordingly, the Commission estimates, for PRA purposes, that the total number of confidentiality arrangements that will be executed under the proposed rules is 300. Given that the Commission will have published a form of confidentiality arrangement as an appendix to part 49, the Commission estimates that the review and execution of each confidentiality arrangement by an ADR or AFR will take approximately 40 hours, for a total burden of 12,000 hours. The burden estimates associated with entering into such confidentiality arrangements are addressed in the proposed revised OMB Control Number 3038–0086.

An entity that seeks access to SDR swap data must be considered appropriate by the Commission prior to that entity receiving access to SDR swap data. For Enumerated ADRs, there is no burden associated with seeking to be deemed appropriate by the Commission as they are already enumerated as such. Those entities that are not Enumerated ADRs will be required to receive a Determination Order prior to receiving access to SDR swap data. The process for obtaining such a Determination Order is set out in general terms in proposed § 49.17(h) and requires the requesting entity to prepare and submit an application to the Commission. The preparation and submittal of this application constitutes an information collection under the PRA.

As discussed above, the Commission believes that for PRA purposes it is reasonable to assume that 300 domestic and foreign entities will seek access to SDR swap data. Very few of these entities are specifically enumerated in § 49.17(b)(1). The Commission estimates, for PRA purposes, that each such requesting entity would expend 100 hours in connection with filing an application to receive an appropriateness determination, for a total initial burden of no more than 30,000 hours, calculated as the product of 300 domestic and foreign entities seeking access to SDR swap data and 100 hours per application). This estimate considers the relevant information that would be required to be provided in such an application, including information regarding the entity's scope of jurisdiction, mutual assistance provided to the Commission, and the existence of cooperation related to an MOU or similar information sharing arrangement with the Commission, as well as any other information relevant for the Commission's determination. This burden estimate is included in the Commission's proposed revisions to Information Collection 3038–0086.

Swap Data Repositories. As discussed throughout this release, SDRs are required to facilitate access to SDR swap data by requesting entities, provided certain conditions are met. This requirement may implicate PRA collections and burdens, some of which are already addressed in the existing OMB Control Number 3038–0086, and some of which constitute new collections, as discussed below. Currently, the burden on SDRs of making data available to ADRs and AFRs is accounted for in OMB Control Number 3038–0086, as this is an existing obligation under existing § 49.17(d). However, the proposed rules set out in this release clarify and modify the requirements imposed on SDRs in providing access to SDR swap data to ADRs and AFRs. Consequently the Commission is revising Information Collection 3038–0086 to account for these modifications.

The Commission expects to limit a requesting entity's access to SDR swap data based on the entity's scope of jurisdiction. In connection with this

[64] The Commission estimates that up to approximately 30 authorities in the United States may seek to access swap data from SDRs. In the context of potential AFRs, the Commission believes that most requests will come from authorities in G20 countries, each of which will have no more and likely fewer than 30 authorities that may request swap data from SDRs. In addition, certain authorities from outside the G20 also may request swap data from SDRs. Accounting for all of these entities, the Commission estimates that there likely will be a total of no more than 300 relevant domestic and foreign authorities that may request swap data from SDRs.

limitation, the Commission expects SDRs to incur burdens and costs associated with setting up access to SDR swap data that is consistent with an ADR or AFR's scope of jurisdiction. The Commission expects that each confidentiality arrangement will identify, either directly or through the attached Determination Order, the scope of access that is appropriate for a given requesting entity. The Commission expects SDRs to use these limitations to program their systems to reflect the scope of the ADR or AFR's access to SDR swap data. These limits set out in the confidentiality arrangement are expected to reduce the burdens on SDRs of assessing whether a request satisfies the relevant conditions, particularly with regard to whether SDR swap data relates to persons or activities within the requesting entity's scope of jurisdiction. The Commission estimates that the burden on an SDR associated with setting up access restrictions to match a requesting entity's scope of jurisdiction will include 20 hours of programmer analyst time, five hours of senior programming time, and one hour of attorney time, for a total of 26 hours. Consequently, for PRA purposes, the Commission estimates that each SDR would incur a total burden of 7,800 hours (*i.e.,* the product of 300 entities and 26 hours of time) associated with setting up access for each ADR or AFR. The burdens associated with these permissioning requirements are addressed in proposed revised OMB Control Number 3038–0086.

SDRs will also be required to provide electronic notice to the Commission of the first request for data from a particular requesting entity and promptly after receiving any request that does not comport with the scope of the ADR's or AFR's jurisdiction. In addition to notifying the Commission of the foregoing, the Commission is proposing, in §§ 49.17(d)(4)(i) and (iii), to require SDRs to maintain records of all information related to the initial and all subsequent requests for data from the requesting entity. These records shall include, at a minimum, the identity of the requestor or person accessing the data; the date, time and substance of the request or access; and copies of all data reports or other aggregation of data provided in connection with the request or access. The SDR shall maintain this information for a period of no less than five years after the date of such request and shall provide this information to the Commission upon request.

Currently, OMB Control Number 3038–0086 estimates burdens associated with various registration, reporting, recordkeeping, and disclosure requirements to which SDRs are subject. The proposed recordkeeping requirements relating to requesting entities' data requests constitute an information collection for PRA purposes and require the Commission to revise the recordkeeping burden estimates contained in OMB Control Number 3038–0086. The reporting and recordkeeping requirements proposed in this release may potentially impact each SDR.

SDRs already have the ability to communicate electronically with the Commission and are subject to significant recordkeeping requirements pursuant to § 49.12. Therefore, the proposed requirements should not result in SDRs having to incur initial costs to implement systems to properly notify the Commission when a requesting entity submits a data request for the first time that are in excess of what is already accounted for in OMB Control Number 3038–0086. The Commission estimates that initially each SDR may incur a burden of 360 hours associated with these proposed recordkeeping requirements, for a total of 1,440 hours (*i.e.,* the product of four SDRs and 360 hours). Additionally, the Commission estimates that each SDR would incur an annual burden of 280 hours associated with the recordkeeping requirements, for a total of 1,120 hours annually (*i.e.,* the product of four SDRs and 280 hours). The burdens associated with these notification requirements are addressed in proposed revised Information Collection 3038–0086.

Finally, current Information Collection 3038–0086 accounts for the costs to SDRs of executing a ''Confidentiality and Indemnification Agreement'' with each requesting ADR and AFR. Under the Commission's proposal, the SDR is no longer required to execute such an agreement with the ADRs or AFRs. The proposed confidentiality arrangement shall be between the requesting ADR or AFR and the Commission. Accordingly, the total burden to SDRs, as currently reflected in Information Collection 3038–0086, is reduced by the cost to execute such agreements. The reduction in burden associated with this change in the confidentiality agreement is addressed in proposed revised Information Collection 3038–0086.

3. Request for Comments on Collection

The Commission invites the public and other Federal agencies to comment on any aspect of the reporting burdens discussed above. Pursuant to 44 U.S.C. 3506(c)(2)(B), the Commission solicits comments in order to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) evaluate the accuracy of the Commission's estimate of the burden of the proposed collection of information; (3) determine whether there are ways to enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

Comments may be submitted directly to the Office of Information and Regulatory Affairs, by fax at (202) 395–6566 or by email at *OIRAsubmissions@omb.eop.gov.* Please provide the Commission with a copy of submitted comments so that all comments can be summarized and addressed in the final rule preamble. Refer to the **ADDRESSES** section of this notice of proposed rulemaking for comment submission instructions to the Commission. A copy of the supporting statements for the collections of information discussed above may be obtained by visiting *www.RegInfo.gov.* OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

C. Cost-Benefit Considerations

1. Introduction

As discussed in Section I, entitled ''Background and Introduction,'' above, Congress passed the FAST Act to facilitate broader access to swap data by the regulatory community. Section 86001(b) of the FAST Act amends CEA section 21 by, among other things, eliminating the requirement that, as a condition of receiving information from SDRs, each ADR or AFR agree to indemnify the SDR and the Commission for any expenses arising from litigation relating to the information provided under CEA Section 8. The Commission is issuing this proposed rulemaking to enable ADRs and AFRs to access swap data, subject to certain safeguards designed to protect swap data from misappropriation or misuse, and to advise the public of the practical implications of the changes to the CEA made by the FAST Act. The Commission preliminarily believes that the proposed safeguards are warranted based on the incorporation by reference

in CEA sections 21(c)(7) and 21(d) of the strong protections of CEA section 8.

CEA section 15(a) requires the Commission to consider the costs and benefits of its actions before promulgating a regulation under the CEA or issuing certain orders. CEA section 15(a) further specifies that the costs and benefits shall be evaluated in light of the following five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission considers the costs and benefits resulting from its discretionary determinations with respect to the CEA section 15(a) factors.

As an initial matter, the Commission recognizes that there are benefits, discussed more fully below, for domestic and foreign regulators to have access to SDR swap data. Yet, there are inherent compromises between data access and data security. More directly, greater access leads to data being less secure from misappropriation or misuse. The Commission recognizes that there are costs associated with this proposed rulemaking. The Commission, however, lacks the requisite data and information to precisely estimate costs, in part, because the proposed rulemaking grants SDRs, ADRs, and AFRs discretion to implement the proposed regulations through alternative measures. Furthermore, the Commission does not know which approach SDRs, ADRs, and AFRs will take. As a consequence, where it is not feasible to quantify (*e.g.,* because of the lack of accurate data or appropriate metrics), the Commission has considered the costs and benefits of this proposed rulemaking in qualitative terms. The Commission, nevertheless, requests that commenters provide any data or other information that would be useful in the estimation of the quantifiable costs and benefits of this proposed rulemaking.

2. Baseline and Proposed Rule Summary

a. Definition of Foreign Regulator—Proposed Amendment to § 49.2(a)(5)

The status quo baseline definition for the term ''foreign regulator'' as defined in current § 49.2(a)(5) is a ''foreign futures authority as defined in CEA Section 1a(26), foreign financial supervisors, foreign central banks and foreign ministries.'' [65] The Commission is proposing to amend the term ''foreign regulator'' to add entities. Specifically, the Commission is adding the phrase ''other foreign authorities'' to the definition. This approach is consistent with the FAST Act's amendment to CEA section 21(c)(7)(E).

b. Definition of Appropriate Foreign Regulator—Proposed Amendment to § 49.17(b)(2)

The status quo baseline definition for the term ''Appropriate Foreign Regulator'' (defined in current § 49.17(b)(2)) is ''those Foreign Regulators with an existing memorandum of understanding or other similar type of information sharing arrangement executed with the Commission and/or Foreign Regulators without an MOU as determined on a case-by-case basis by the Commission.'' [66]

The Commission is proposing to amend current § 49.17(b)(2) to require all ''foreign regulators'' to file an application with the Commission to become ''Appropriate Foreign Regulators.'' The existence of a current MOU or other information sharing arrangement with the Commission will not be dispositive to a determination of appropriateness. The proposed amendment would require the Commission to issue an order finding each foreign regulator ''appropriate.'' In this manner, the Commission will ensure that each ''Appropriate Foreign Regulator'' is acting within its scope of jurisdiction as mandated under CEA section 21(c)(7) through incorporation by reference of CEA section 8(e). The Commission believes that this proposal will provide greater control over the process by which foreign regulators obtain access to SDR swap data; specifically, it will help to ensure that only those foreign regulators who have a regulatory interest in SDR swap data can access such swap data. The limitation on swap data access proposed in this recommendation is expected to help reduce the risk of unauthorized disclosure, misappropriation or the misuse of swap data.

c. Duties of Registered SDRs—Proposed Amendments to § 49.9(a)(9)

The Commission has proposed conforming language changes to current § 49.9(a)(9).[67] There are no substantive changes with respect to costs and benefits.

d. Purpose of Access to SDR Data—Proposed Amendment to § 49.17(a)

The Commission has proposed conforming language changes to current § 49.17(a).[68] There are no substantive changes with respect to costs and benefits.

e. Appropriate Domestic Regulator—Proposed Amendment to § 49.17(b)(vii)

The Commission has proposed conforming language changes to current § 49.17(b)(vii) to cross-reference the process under § 49.17(h).[69] There are no substantive changes with respect to costs and benefits in proposed § 49.17(b)(vii). If there are any costs or benefits associated with the changes in § 49.17(b)(vii), they will be discussed in regards to the process defined under proposed § 49.17(h), which is the appropriateness-determination process.

f. Domestic Regulator With Regulatory Responsibility—Proposed Amendment to § 49.17(d)(2)

By way of this proposed rulemaking, the Commission has explained that if a domestic regulator receives swap data pursuant to its regulatory regime, that access is not subject to CEA sections 21(c)(7) or 21(d), or Commission regulations § 49.17(d) or § 49.18.

g. Foreign Regulator With Regulatory Responsibility—Proposed Amendment to § 49.17(d)(3)

Foreign Regulators require data in order to fulfill their regulatory responsibilities. In proposed § 49.17(d)(3) the Commission has explained that, if a foreign regulator receives swap data pursuant to its regulatory regime, that access is not subject to CEA sections 21(c)(7) or 21(d), or §§ 49.17(d) or 49.18.

h. SDR Notification Requirement—Proposed Amendment to § 49.17(d)(4)(i) to (iv)

Current § 49.17(d)(4)(i) requires an SDR to promptly notify the Commission regarding any request for swap data received by Appropriate Domestic or Foreign Regulators.[70] SDRs under this current regulation are required to notify the Commission for each and every request of an Appropriate Domestic or Foreign Regulator (including ongoing swap data requests).

The Commission proposes to amend current § 49.17(d)(4)(i)–(ii) to provide that SDRs notify the Commission at the time that such SDR receives the initial request for swap data from a particular

[65] 17 CFR 49.2(a)(5).

[66] 17 CFR 49.17(b)(2).

[67] 17 CFR 49.9(a)(9).

[68] 17 CFR 49.17(a).

[69] 17 CFR 49.17(b)(vii).

[70] 17 CFR 49.17(d)(4)(i).

ADR or AFR and promptly after receiving any request that does not comport with the scope of the ADR's or AFR's jurisdiction. Consistent with current recordkeeping requirements set forth in § 49.12, SDRs are required to maintain books and records of all information related to the initial and any subsequent requests for swap data from an Appropriate Domestic or Foreign Regulator. The Commission also proposed electronic notification similar to the current rule requirement. In addition, the Commission placed a few obligations on SDRs under proposed § 49.17(d)(4)(iii) and (iv) regarding data access to ADRs and AFRs, and determining an ADR's or AFR's jurisdiction.

In addition, proposed § 49.17(d)(4)(iii) requires SDRs to limit, suspend, or revoke an ADR's or AFR's swap data access if the ADR's or AFR's scope of jurisdiction changes and the Commission directs the ADR or AFR to limit, suspend, or revoke an ADR's or AFR's swap data access.

i. Timing; Limitation, Suspension or Revocation of Access—Proposed Amendments to § 49.17(d)(5)

The changes to the rule text in current § 49.17(d)(5) make clear that SDRs must notify the Commission of an ADR or AFR access request and the receipt of a confidentiality arrangement, among other things. In addition, proposed § 49.17(d)(5) requires SDRs to limit, suspend, or revoke an ADR's or AFR's swap data access if the Commission limits, suspends or revokes the ADR's or AFR's appropriateness determination or otherwise directs the ADR or AFR to limit, suspend, or revoke an ADR's or AFR's swap data access.

j. Confidentiality Agreement—Proposed Amendments to §§ 49.17(d)(6) and 49.18(a)-(f)

Current §§ 49.17(d)(6) and 49.18, adopted as part of the original part 49 rules, provide that SDRs execute a ''Confidentiality and Indemnification Agreement'' with a CEA section 21(c)(7) entity, prior to sharing swap transaction data and information.[71] This Agreement is required to state that the other regulator will abide by the confidentiality provisions of CEA section 8 and agree to indemnify both the SDR and the Commission against any litigation expenses relating to information provided under CEA section 8. However, through the passage of the FAST Act, Congress has eliminated the requirement that certain domestic and foreign regulators execute the ''Confidentiality and Indemnification Agreement'' prior to obtaining SDR swap data. More specifically, Congress amended CEA section 21(d) to require only the execution of a written agreement by domestic and foreign regulators prior to receipt of swap data from SDRs so that these regulators will abide by the confidentiality requirements described in CEA section 8.

The Commission proposes to amend current §§ 49.17(d)(6) and 49.18 to (i) reflect the FAST Act amendments to CEA sections 21(c)(7) and (d), and (ii) require SDRs to receive a confidentiality arrangement from a 21(c)(7) entity, before sharing swap data, to satisfy the requirements of CEA section 21(d). Unlike the current regulations, this confidentiality arrangement will not be executed by the SDR with the 21(c)(7) entity, but instead would be executed by the Commission and the 21(c)(7) entity. The Commission proposes to provide a form of confidentiality arrangement attached as Appendix B to part 49. Use of the form would not be mandatory but would provide an efficient and expeditious means of fulfilling the confidentiality requirement of 21(d) and §§ 49.17(d) and 49.18.

k. Third-Party Service Providers—Proposed Amendments to § 49.17(e)

The Commission modified the text in current § 49.17(e) for clarity. There are no substantive cost or benefit implications.

l. Access by Market Participants Barred—Proposed Amendment to § 49.17(f)

The Commission modified the text in current § 49.17(f) for clarity. There are no substantive cost or benefit implications.

m. Filing Requirements for Applicants To Be Determined Appropriate—Proposed Amendments to § 49.17(h)

In this proposed rulemaking, the Commission has added proposed § 49.17(h) to describe the application process for persons seeking an appropriateness determination. In sub-paragraph (2), the Commission explains that the applicant must provide sufficient detail to explain its jurisdiction and its confidentiality safeguards. Proposed § 49.17(h)(3) also outlines the standards by which the Commission will issue an appropriateness determination. Finally, the Commission explains in proposed § 49.17(h)(4) that it reserves the right to ''revisit, reassess, limit, suspend or revoke'' an appropriateness determination.

n. Delegation of Authority—Addition of Proposed §§ 49.17(i) and 49.18(e)

Current §§ 49.17 and 49.18 do not have delegation of authority provisions. The Commission proposes to amend §§ 49.17 and 49.18 to add a delegation of authority to the Director of the Division of Market Oversight (''DMO'') and the Director's designee(s) of functions reserved to the Commission in §§ 49.17 and 49.18. The delegation of Commission authority would make the process more effective and efficient.

o. SDR Chief Compliance Officer Duties—Proposed Amendment to § 49.22(d)(4)

The change to current § 49.22(d)(4) is the removal of the word ''indemnification'' from the rule text. This is a conforming change to make the rule consistent with the FAST Act amendments.

3. Benefits

At a high level regarding benefits, the rulemaking is expected to assist regulators in performing their supervisory and regulatory functions by providing them access to swap data, which would help regulators better understand the risks their regulated entities are assuming and the impact of such risks on the broader markets. These supervisory and regulatory functions may include: Monitoring and mitigation of systemic risk; ensuring financial stability; registration and oversight of financial market infrastructures; registration and oversight of trading venues; registration and oversight of market participants; central bank activities; prudential supervision; restructuring or resolution of infrastructures and firms; and regulation of cash markets, in some of which swap counterparties are active.

A more granular benefit to regulators flows from the Commission's proposal to resolve a conflict or potential conflict between the Commission's Interpretative Statement and current § 49.18(c). In the Interpretative Statement, the Commission took the view that other regulators who access swap data based on their own authority over SDRs are not subject to the swap data access-related provisions of the CEA. On the other hand, current § 49.18(c) provides that such regulators are required to comply with CEA section 8 and any other relevant statutory confidentiality provisions. The Commission proposes to delete the statement in current § 49.18(c) providing that other regulators are required to comply with CEA section 8 and any other relevant statutory

[71] See 17 CFR 49.17(d)(6) and 49.18.

confidentiality provisions even when they access swap data based on their own authority over SDRs.[72] Other regulators will benefit both from the clarity this action provides and by the greater ease of access to swap data within their jurisdiction.

4. Costs

The Commission recognizes that there are different types of costs associated with this proposed rulemaking. One cost is the potential harm to market participants and the public if swap data is misused—for example, inappropriately disclosed by ADRs and AFRs. Or, another harmful scenario might involve misappropriated data where hackers pilfer swap data from ADRs and AFRs to learn the positions of market participants so that the hackers, or other interested parties who may even pay for such information, scam the market. Such bad actors might be able to anticipate such market participants' trades and trade in front of them, raising swap trading costs to market participants, thereby reducing their profits.[73] If the aforementioned scenario occurred frequently enough this might induce swap dealers to widen their spreads, making hedging more expensive. In turn, this might lead to sub-optimal business and investment strategies, as parties would be less willing to participate in swap markets, because it would be more costly. Further, the scenario posed could cause market participants to be concerned that their business strategies might be tipped to their competitors, because with stolen data, somebody might be able to infer their strategies from knowing their swap positions and how these positions change in response to relevant economic events.[74] Such concerns could lead some market participants to withdraw to some extent from swap markets, reducing liquidity and potentially inducing them to use less effective hedging instruments or trading strategies in other markets.

At a high level regarding costs to ADRs and AFRs, the less access to swap data granted to ADRs and AFRs, the less such swap data would help in performing ADRs' and AFRs' supervisory and other regulatory functions. Similarly, the more impediments to swap data access, the longer it would take ADRs and AFRs to use, or the less use ADRs and AFRs could make of, such swap data.

At a more granular level, the Commission is proposing several new obligations applicable to foreign regulators and certain domestic regulators that will trigger costs for such regulators. The obligation for foreign regulators and unenumerated domestic regulators to apply for a Determination Order conferring AFR or ADR status so that such foreign regulators and unenumerated domestic regulators can receive access to SDR swap data will, at a minimum, require such applicants to dedicate personnel to drafting the application. Some applicants for ADR and AFR status may choose to retain outside counsel or another third party to draft the application, thereby incurring related costs. There also may be an additional cost associated with the complexity of the application because applicants for ADR and AFR status will have to explain their jurisdiction and link it to the sought swap data so that the Commission can provide swap data access parameters to SDRs in the Determination Orders.[75] While applicants will need to expend resources developing their ''appropriateness'' applications, the Commission expects that the requirements and guidance it has provided in the proposed rulemaking should reduce such expenditures to a certain extent. Nonetheless, such expenditures will depend on the particulars of a given applicant. Because the Commission lacks sufficient knowledge of the specific characteristics of the applicants, among other things, the Commission is unable to quantify these expenditures at this time.

The proposed requirement in § 49.18(a) that SDRs receive an executed confidentiality arrangement from an ADR or AFR before the SDR can provide the ADR or AFR swap data is based on a corresponding requirement set forth in CEA section 21(d) and will generate costs to ADRs and AFRs. CEA section 21(d) does not specify any details of the required written agreement other than that it must state that the ADR or AFR shall abide by CEA section 8's confidentiality requirements. The Commission, however, is proposing, in Appendix B to this part 49, to specify required elements as well as a form of confidentiality arrangement providing for ADRs and AFRs to implement a number of safeguards that would impose burdens on ADRs and AFRs. The confidentiality arrangement would include safeguards that:

- To the maximum extent practicable, maintain Confidential Information separately from other data and information;
- Protect Confidential Information from misappropriation and misuse;
- Ensure that only ADR or AFR personnel with a need to access particular Confidential Information to perform their job functions related to such Confidential Information have access thereto and that such access is permitted only to the minimum extent necessary to perform such job functions;
- Prevent disclosure of aggregated Confidential Information unless anonymized to prevent identification, through disaggregation or otherwise, of a market participant's business transactions, trade data, market positions, customers or counterparties;
- Prohibit the use of Confidential Information by ADR or AFR personnel for any improper purpose, including in connection with trading for their personal benefit or for the benefit of others or with respect to any commercial or business purpose;
- Monitor compliance with the confidentiality safeguards and ensure prompt notification of the CFTC and each relevant SDR of any violation of the safeguards or failure to fulfill the terms of the confidentiality arrangement;
- Prohibit the onward sharing or disclosing of Confidential Information unless exempted in paragraphs 6(d) or 8 of the confidentiality arrangement;
- Notify the CFTC in writing prior to complying with any legally enforceable demand for Confidential Information and assert all available appropriate legal exemptions or privileges with respect to such Confidential Information, and use its best efforts to protect the confidentiality of the Confidential Information; and
- Promptly destroy all Confidential Information for which an ADR or AFR no longer has a need or for which the information no longer falls within the scope of its jurisdiction, and certify to the CFTC, upon request, that the ADR or AFR has destroyed such Confidential Information.

The Commission preliminarily believes that the monetary costs of these burdens would be minor, and the other costs of complying with these burdens, such as the costs to develop policies,

[72] 17 CFR 49.18(c).

[73] *See, e.g.,* Registered Entity Cyber proposed rulemaking at 80141 (observing that ''there has . . . been a rise in attacks by . . . hacktivists . . . aimed at . . . [, among other things,] theft of data or intellectual property . . . .''); *Id.* at 80189 (Concurring Statement of Commissioner Bowen) (stating that ''our firms are facing an unrelenting onslaught of attacks from hackers with a number of motives ranging from petty fraud to international cyberwarfare.'').

[74] While the same risks of misuse and misappropriation exist with respect to swap data maintained at SDRs, SDRs are regulated, and subject to sanctions, by the Commission, whereas ADRs and AFRs are not.

[75] Enumerated domestic regulators also will have to demonstrate to the Commission the scope of their jurisdiction so that SDRs will know the contours of the swap data access they can provide to enumerated domestic regulators.

procedures and safeguards, are within the scope of ADRs' and AFRs' expertise.[76] Given that ADRs and AFRs can elect not to seek access to swap data from SDRs and that ADRs and AFRs who do seek such access have some control over the manner in which they seek to access such swap data, ADRs and AFRs themselves can influence to some degree the costs they impose on themselves by seeking access to swap data from SDRs.

The proposed rulemaking would prohibit ADRs and AFRs from onward sharing Confidential Information with other parties. This could impose some costs in that ADRs and AFRs would not be able to freely share swap data among themselves. This could reduce the utility of the swap data to ADRs and AFRs, possibly reducing the effectiveness thereof. In addition, the fact that the Commission is proposing not to specify a particular means of ADRs and AFRs accessing swap data could result in SDRs providing a means of access other than a means preferred by ADRs and AFRs. This might impose additional costs to ADRs and AFRs relative to the potentially lesser costs of their preferred means of access. Because of these uncertainties, the Commission is unable to quantify these costs but is able to identify such costs generally.

For SDRs, providing swap data access to so many potential ADRs and AFRs may be expensive. For example, SDRs may be forced to purchase new servers, hire new system administrators to oversee the new swap data/system usage and troubleshoot related problems that may arise. New recordkeeping requirements would require more system resources. The proposed requirement to limit the swap data provided to ADRs and AFRs to only swap data that is within the scope of ADRs' and AFRs' jurisdiction may cause SDRs to elect to create new methods for parsing swap data to comply with the proposed requirement to so limit swap data. The proposed reporting obligations also will increase SDRs' costs, although to the extent that such reporting obligations are not triggered, such cost increases would be tempered accordingly. Nevertheless, SDRs presumably would need to incur some costs to develop policies and procedures, and build out systems, to monitor potential events that would trigger the proposed new reporting requirements.

Other SDR costs will include those related to SDRs verifying that each access request by an ADR or AFR is within the scope of the ADR's or AFR's jurisdiction. This will require SDRs to expend resources to ensure that they do not improperly disclose to an ADR or AFR swap data that such ADR or AFR is not entitled to see, in violation of CEA section 21(c)(7)'s requirement that SDRs disclose swap data to ADRs and AFRs ''on a confidential basis pursuant to [CEA] section 8 . . . .'' [77] By stating that SDRs shall not provide ADRs or AFRs with swap data access unless such swap data is within the scope of a requesting ADR's or AFR's jurisdiction as described and appended to the confidentiality arrangement required by proposed § 49.18(a), proposed § 49.17(d)(4)(iii) would narrow the scope of the sources SDRs must consult to determine the ADR's or AFR's scope of jurisdiction. The Commission anticipates that narrowing the scope of the sources that SDRs must review to determine an ADR's or AFR's scope of jurisdiction would limit the resources SDRs must expend to verify the scope of an ADR's or AFR's jurisdiction. The Commission also anticipates that lists of ADRs' and AFRs' regulated entities' legal entity identifiers (''LEIs'') and uniform product identifiers (''UPIs'') of swaps within the scope of ADRs' and AFRs' jurisdiction would limit the resources SDRs must expend to verify whether swap data access requests are within the scope of an ADR's or AFR's jurisdiction—if ADRs and AFRs choose to develop such lists—which the Commission anticipates they would.

The Commission understands that there are some blank data entries in LEI fields, however, despite the Commission having designated an LEI system in 2012, and masked LEIs in a number of cases to reflect certain other jurisdictions' privacy law limits on disclosure.[78] In addition, UPIs are still evolving for many swap contracts. Specifically, UPIs are in widespread use for standardized swaps but less so for other swaps. In cases where there is no UPI for a class of swaps, § 45.7(c)(2) requires SDRs to create a UPI for such class and requires SDRs, all other registered entities and swap counterparties to use such SDR UPI-equivalent contract identifiers to classify swaps. In such cases, ADRs and AFRs could use SDRs' UPI-equivalents to identify swaps within the scope of ADRs' and AFRs' jurisdiction.

In general, the blank or masked LEI data fields and UPI limits discussed above would raise the costs for SDRs and potentially for ADRs and AFRs. Inadequate data fields and UPIs hinder SDRs' abilities to identify transactions and determine whether such transactions, in particular swap data, are within an ADR's or AFR's jurisdictional scope and interest. Even though the Commission believes these obstacles would increase costs, the Commission also believes that such costs are difficult to quantify at this time. The Commission specifically requests comment on this concern. Commenters are encouraged to quantify such costs, if practical. The Commission understands that lists of LEIs of ADRs' and AFRs' regulated entities and lists of UPIs or UPI-equivalents of swaps within ADRs' and AFRs' jurisdiction may have to be updated from time to time as regulated entities move in and out of ADRs' and AFRs' jurisdiction, ADRs' and AFRs' jurisdiction expands or contracts, swaps evolve, and new swaps are developed. In these cases, for example, an ADR or AFR likely would have to modify periodically the list of LEIs and UPIs it gives to SDRs.

The proposal would further mitigate the costs to SDRs by permitting them to verify the scope of an ADR's or AFR's jurisdiction just once for a recurring request the details of which do not change. SDRs might incur additional costs, however, if the scope of jurisdiction changes for an ADR or AFR. Such additional costs include some fraction of the above costs as well as the cost to notify the Commission of the change in jurisdiction for the ADR or AFR.

The Commission is proposing Appendix B to Part 49 to provide a form of confidentiality arrangement for execution by the Commission and by ADRs and AFRs seeking swap data access maintained by SDRs so that ADRs and AFRs can satisfy the confidentiality agreement requirement set forth in CEA § 21(d). The Commission believes that this form would eliminate SDRs' costs and reduce ADRs' and AFRs' costs to negotiate the terms of such an arrangement relative to an alternative of negotiating and signing confidentiality arrangements with four separate SDRs. Otherwise, confidentiality arrangement costs could be substantial in terms of management

[76] The Commission believes that potential ADRs and AFRs would likely have established safeguards to protect sensitive data other than swap data and that such safeguards could be adapted to address the requirements of the proposed form of confidentiality arrangement without great cost.

[77] The need for these resource expenditures would flow from proposed § 49.17(d)(4)(iii), which would preclude SDRs from granting ADRs or AFRs access to swap data unless the SDR has determined that such swap data is within the then-current scope of such ADRs' or AFRs' jurisdiction.

[78] *See, e.g.,* DMO No-Action Letter 16–03 (Jan. 15, 2016), available at *http://www.cftc.gov/idc/groups/public/@lrlettergeneral/documents/letter/16-03.pdf, for further information regarding such privacy law restrictions.*

attention and expenditures.[79] The Commission expects that reviewing and signing a confidentiality arrangement would not require substantial expenditures, but request public comments on such costs.[80] Commenters are encouraged to quantify where practical.

The Commission is proposing to permit SDRs to determine the means by which they will provide access to swap data to ADRs and AFRs. The Commission notes that SDRs already provide the Commission and the National Futures Association with data. Providing incremental access to ADRs and AFRs may permit SDRs to take advantage of economies of scale, thus mitigating SDRs' costs. The proposal would also mitigate SDRs' costs by permitting them to choose the means by which they will provide access to swap data to ADRs and AFRs. The Commission expects that SDRs would choose the lowest cost means of access consistent with their statutory obligation to provide ADRs and AFRs access to swap data and other constraints. The Commission cannot forecast what these costs would be at this time, however, because it depends on particulars of each SDR that the Commission does not know. Consequently, the Commission welcomes public comments on this requirement and how SDRs might satisfy this requirement. Commenters are encouraged to quantify where practical.

CEA section 21(c)(7) requires SDRs to notify the Commission of requests for data from a particular ADR or AFR. Proposed § 49.17(d)(4)(i) would reduce that burden by permitting SDRs to notify the Commission only of the first such request by each ADR or AFR and promptly after receiving any request that does not comport with the scope of the ADR's or AFR's jurisdiction. In addition to the foregoing, the Commission is proposing to amend current § 49.17(d)(4)(i) to require SDRs to maintain records of all information related to the initial and all subsequent requests for data from the requesting entity. The SDR would have to maintain this information for the same period required for other SDR records. Although these costs may be relatively small, the Commission anticipates using such data to, for example, monitor ADRs' and AFRs' access requests from time to time to ensure that they remain within the scope of their jurisdiction and, relatedly, to ensure that SDRs have been monitoring this access issue.

As one alternative to proposing comprehensive swap data safeguards, the Commission instead could have chosen to merely delete the indemnification references in its regulations. While that approach could have avoided imposing many of the costs to ADRs, AFRs, and SDRs related to protection of confidentiality discussed herein, it would have dramatically increased the risk of imposing on market participants and the public the costs discussed above in the first paragraph of this section IV.C.4. and below in section IV.C.5.a.–c., which the Commission preliminarily believes is inconsistent with the historical importance Congress and the Commission have placed on protecting information covered by CEA section 8. Consequently, the Commission has determined to take the proposed approach.

5. Consideration of CEA Section 15(a) Factors

a. Protection of Market Participants and the Public

The Commission is proposing a number of safeguards to prevent market participants' swap data maintained at SDRs from being misappropriated or misused, as discussed above. Those proposed safeguards include: Modifying the requirements for being an AFR; requiring both ADRs and AFRs to demonstrate the scope of their swap-data jurisdiction as a limit on the swap data to which an ADR or AFR may have access; having the Commission issue Determination Orders; imposing on ADRs and AFRs seeking access to swap data maintained by SDRs a number of required confidentiality safeguards; barring onward sharing of swap data; certain recordkeeping and reporting requirements; and ensuring the Commission's ability to revoke an ADR's or AFR's swap data access. Some market participants, and the public, could be harmed if market participants' proprietary swap data were misappropriated or misused. As detailed above in the ''Cost'' discussion, there is the potential harm that misappropriated swap data could be used to front run market participants whose swap data were misappropriated, raising their costs of completing swap transactions. More specifically, spreads could widen, which could deter some market participants from engaging in swap transactions trading and prevent prices from adjusting as quickly. Another possible misuse of market participants' swap data is if those who obtained misappropriated swap data were to reverse engineer the trading strategies of the market participants whose data were misappropriated and use such strategies, potentially undermining their efficacy.

b. Efficiency, Competitiveness, and Financial Integrity of Futures Markets

The Commission believes that there will be little effect on efficiency, competiveness, and financial integrity of futures markets if swap data is properly protected from being misappropriated or misused. If swap data is not properly protected, however, competition might be affected, in that market participants might be less willing to engage in swap transactions if parties are trading in front of them, raising their costs, or misappropriating their trading strategies, lowering such strategies' effectiveness. This could induce some swap dealers to charge higher fees (explicitly or implicitly) for their services and otherwise reduce profits. Such concerns may also encourage market participants to increase their use of futures contracts relative to swaps, because futures position data may be better protected.

c. Price Discovery

The Commission believes that price discovery would not be affected by this proposed rulemaking. There may be some indirect effects on price discovery if the safeguards in this proposed rulemaking prove ineffective, however. Price discovery could be negatively impacted if position data is misappropriated or misused to the disadvantage of some participants. For instance, as previously explained, some market participants might withdraw from swaps markets if they fear that their position data will be misappropriated or misused. This could lead to less frequent trading as well as reduced liquidity in swap markets. Furthermore, spreads could widen due to front-running concerns, which could make prices more volatile and harm price discovery.

[79] Nevertheless, proposed § 49.18(a) would allow ADRs and AFRs to negotiate an alternative to the proposed form, provided that such alternative contains the elements required in proposed § 49.18(b), which, in turn, requires that such alternative contain all the elements of the proposed form.

[80] The Commission has on occasion used the SIFMA Report on Management and Professional Earnings in the Securities Industry to estimate these kinds of costs. For instance, on page 279 of the SIFMA Report for 2013, the mean salary for a compliance attorney is $100,840 with an average bonus of $26,666. This gives $127,506 in average total compensation for a compliance attorney. This number is divided by 1,800 hours and multiplied by 5.35 to account for overhead to get approximately $379 per hour. Next, multiplying by 12,000 burden hours (from the Paperwork Reduction Act section of this release) results in approximately $4,500,000 in estimated costs.

d. Sound Risk Management Practices

This proposed rulemaking will help regulators better understand the risks posed by their regulated entities. Without swaps data, it is impossible to comprehensively supervise entities that engage in swap trading. In this way, the proposed rulemaking helps to mitigate systemic risk. Allowing more ADRs and AFRs to access SDR swap data establishes the potential to improve SDR data by potentially facilitating research and analysis that ultimately leads to better risk management by market participants. This can occur through academic research that influences market participants to improve their risk management based on the research, or by ADRs and AFRs asserting their authority over their regulated entities to compel them to improve their swap data reporting and risk management.

e. Other Public Interest Considerations

The Commission does not believe that there are any other public interest considerations with respect to this proposed rulemaking.

6. Request for Comment

The Commission requests comment on all aspects of its cost and benefit considerations. Commenters are encouraged to quantify their comments, if practical.

D. Antitrust Considerations

CEA section 15(b) requires the Commission to take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of the CEA, in issuing any order or adopting any Commission rule or regulation.

The Commission does not anticipate that the proposed amendments to part 49 will result in anticompetitive behavior. However, because the proposed amendments affect existing SDR procedures relating to data reporting validation and data accuracy, the Commission encourages comments from the public on any aspect of the proposal that may have the potential to be inconsistent with the antitrust laws or be anticompetitive in nature.

List of Subjects in 17 CFR Part 49

Access to swap data; Commodity Exchange Act section 8; Confidentiality; Registration and regulatory requirements; Swap data repositories.

For the reasons stated in the preamble, the Commodity Futures Trading Commission proposes to amend 17 CFR part 49 as set forth below:

PART 49—SWAP DATA REPOSITORIES

■ 1. The authority citation for part 49 is revised to read as follows:

Authority: 7 U.S.C. 12a and 24a, unless otherwise noted.

■ 2. In § 49.2, revise paragraph (a)(5) to read as follows:

§ 49.2 Definitions.

(a) * * *

(5) *Foreign Regulator.* The term ''*foreign regulator*'' means a foreign futures authority as defined in Section 1a(26) of the Act, foreign financial supervisors, foreign central banks, foreign ministries and other foreign authorities.

* * * * *

■ 3. In § 49.9, revise paragraph (a)(9) to read as follows:

§ 49.9 Duties of registered swap data repositories.

(a) * * *

(9) Upon request of Appropriate Domestic Regulators and Appropriate Foreign Regulators, provide access to swap data held and maintained by the swap data repository, as prescribed in § 49.17;

* * * * *

■ 4. Amend § 49.17 as follows:

■ a. Revise paragraphs (a), (b)(1)(vii), (b)(2), (c)(2) and (c)(3), (d)(2) through (d)(6), and (e) and (f); and

■ b. Add paragraphs (h) and (i).

The revisions and additions to read as follows:

§ 49.17 Access to SDR data.

(a) *Purpose.* This section provides a procedure by which the Commission, other domestic regulators and foreign regulators may obtain access to the swap data held and maintained by registered swap data repositories. Except as specifically set forth in this section, the Commission's duties and obligations regarding the confidentiality of business transactions or market positions of any person and trade secrets or names of customers identified in Section 8 of the Act are not affected.

(b) * * *

(1) * * *

(vii) Any other person the Commission determines to be appropriate pursuant to the process set forth in § 49.17(h).

(2) *Appropriate Foreign Regulator.* The term ''Appropriate Foreign Regulator'' shall mean those Foreign Regulators the Commission determines to be appropriate pursuant to the process set forth in § 49.17(h).

* * * * *

(c) * * *

(2) *Monitoring tools.* A registered swap data repository is required to provide the Commission with proper tools for the monitoring, screening and analyzing of swap data, including, but not limited to, Web-based services, services that provide automated transfer of data to Commission systems, various software and access to the staff of the swap data repository and/or third-party service providers or agents familiar with the operations of the registered swap data repository, which can provide assistance to the Commission regarding data structure and content. These monitoring tools shall be substantially similar in analytical capability as those provided to the compliance staff and the Chief Compliance Officer of the swap data repository.

(3) *Authorized users.* The swap data provided to the Commission by a registered swap data repository shall be accessible only by authorized users. The swap data repository shall maintain and provide a list of authorized users in the manner and frequency determined by the Commission.

(d) * * *

(2) *Domestic regulator with regulatory responsibility over a swap data repository.* When a swap data repository that is registered with the Commission pursuant to this chapter is also registered with a domestic regulator pursuant to a separate statutory authority, and such domestic regulator seeks access to swap data that has been reported to such swap data repository pursuant to the domestic regulator's regulatory regime, such access is not subject to the requirements of sections 21(c)(7) or 21(d) of the Act, or of §§ 49.17(d) or 49.18.

(3) *Foreign Regulator with regulatory responsibility over a swap data repository.* When a swap data repository that is registered with the Commission pursuant to this chapter is also registered with, or recognized or otherwise authorized by, a Foreign Regulator that has supervisory authority over such swap data repository pursuant to foreign law and/or regulation, and such Foreign Regulator seeks access to swap data that has been reported to such swap data repository pursuant to the Foreign Regulator's regulatory regime, such access is not subject to the requirements of sections 21(c)(7) or 21(d) of the Act, or of §§ 49.17(d) or 49.18.

(4) *Obligations of the registered swap data repository in connection with appropriate domestic regulator or appropriate foreign regulator requests for data access.* (i) A registered swap data repository shall notify the

Commission promptly after receiving an initial request from an Appropriate Domestic Regulator or Appropriate Foreign Regulator to gain access to swap data maintained by such swap data repository and promptly after receiving any request that does not comport with the scope of the ADR's or AFR's jurisdiction, as described and appended to the confidentiality arrangement required by § 49.18(a). Each registered swap data repository shall maintain records thereafter, pursuant to § 49.12, of the details of such initial request and of all subsequent requests by such Appropriate Domestic Regulator or Appropriate Foreign Regulator for such access.

(ii) The registered swap data repository shall notify the Commission electronically, in a format specified by the Secretary of the Commission, of the receipt of a request specified in § 49.17(d)(4)(i).

(iii) The registered swap data repository shall not provide an Appropriate Domestic Regulator or Appropriate Foreign Regulator access to swap data maintained by the swap data repository unless the swap data repository has determined that the swap data to which the Appropriate Domestic Regulator or Appropriate Foreign Regulator seeks access is within the then-current scope of such Appropriate Domestic Regulator's or Appropriate Foreign Regulator's jurisdiction, as described and appended to the confidentiality arrangement required by § 49.18(a). An Appropriate Domestic Regulator or Appropriate Foreign Regulator that has executed a confidentiality arrangement with the Commission pursuant to § 49.18(a) and provided such confidentiality arrangement to one or more swap data repositories shall notify the Commission and each such swap data repository of any change to such Appropriate Domestic Regulator's or Appropriate Foreign Regulator's scope of jurisdiction as described in such confidentiality arrangement. The Commission may direct a swap data repository to suspend, limit, or revoke access to swap data maintained by such swap data repository based on any such change to such Appropriate Domestic Regulator's or Appropriate Foreign Regulator's scope of jurisdiction, and, if so directed, such swap data repository shall so suspend, limit, or revoke such access.

(iv) The registered swap data repository need not make the determination required pursuant to § 49.17(d)(4)(iii) more than once with respect to a recurring swap data request. If such request changes, the swap data repository must make a new determination pursuant to § 49.17(d)(4)(iii).

(5) *Timing; limitation, suspension or revocation of swap data access.* Once a registered swap data repository has—

(i) Notified the Commission, pursuant to § 49.17(d)(4)(i) and (ii), of an initial request for swap data access by an Appropriate Domestic Regulator or Appropriate Foreign Regulator, as applicable, that was submitted pursuant to § 49.17(d)(1);

(ii) Received from such Appropriate Domestic Regulator or Appropriate Foreign Regulator a confidentiality arrangement executed by the Commission and such Appropriate Domestic Regulator or Appropriate Foreign Regulator as required by § 49.18(a); and

(iii) Satisfied its obligations under § 49.17(d)(4)(iii), such swap data repository shall provide access to the requested swap data; *provided, however,* that such swap data repository shall, as directed by the Commission, limit, suspend or revoke such access should the Commission limit, suspend or revoke the appropriateness determination for such Appropriate Domestic Regulator or Appropriate Foreign Regulator or otherwise direct the swap data repository to limit, suspend or revoke such access.

(6) *Confidentiality arrangement.* Consistent with § 49.18(a), the Appropriate Domestic Regulator or Appropriate Foreign Regulator shall, prior to receiving access to any requested swap data, execute a confidentiality arrangement with the Commission consistent with the requirements set forth in § 49.18(b).

(e) *Third-party service providers to a registered swap data repository.* Access to the swap data and information maintained by a registered swap data repository may be necessary for certain third parties that provide various technology and data-related services to a registered swap data repository. Third-party access to the swap data and information maintained by a swap data repository is permissible subject to the following conditions:

(1) Both the registered swap data repository and the third party service provider shall have strict confidentiality procedures that protect swap data and information from improper disclosure.

(2) Prior to a registered swap data repository granting access to swap data or information to a third-party service provider, the third-party service provider and the registered swap data repository shall execute a confidentiality agreement setting forth minimum confidentiality procedures and permissible uses of the swap data and information maintained by the swap data repository that are equivalent to the privacy procedures for swap data repositories outlined in § 49.16.

(f) *Access by market participants*—(1) *General.* Access by market participants to swap data maintained by the registered swap data repository is prohibited other than as set forth in § 49.17(f)(2).

(2) *Exception.* Swap data and information related to a particular swap that is maintained by the registered swap data repository may be accessed by either counterparty to that particular swap. However, the swap data and information maintained by the registered swap data repository that may be accessed by either counterparty to a particular swap shall not include the identity or the legal entity identifier (as such term is used in part 45 of this chapter) of the other counterparty to the swap, or the other counterparty's clearing member for the swap, if the swap is executed anonymously on a swap execution facility or designated contract market, and cleared in accordance with Commission regulations in §§ 1.74, 23.610, and 37.12(b)(7) of this chapter.

* * * * *

(h) *Appropriateness determination process.* (1) Each person seeking an appropriateness determination pursuant to this paragraph shall file an application with the Commission.

(2) Each applicant seeking an appropriateness determination shall provide sufficient detail in its application to permit the Commission to analyze whether the applicant is acting within the scope of its jurisdiction in seeking access to swap data maintained by a registered swap data repository, and whether the applicant employs appropriate confidentiality safeguards to ensure that any swap data such applicant receives from a registered swap data repository will not, except as allowed for in the form of confidentiality arrangement set forth in Appendix B of this part, be disclosed.

(3) If the Commission determines that an applicant pursuant to this paragraph is, conditionally or unconditionally, appropriate for purposes of CEA section 21(c)(7), the Commission shall issue an order setting forth its appropriateness determination. The Commission shall not determine that an applicant pursuant to this paragraph is appropriate unless the Commission is satisfied that—

(i) The applicant employs appropriate confidentiality safeguards to ensure that any swap data such applicant receives from a registered swap data repository

will not be disclosed, except as allowed for in the form of confidentiality arrangement set forth in Appendix B of this part and

(ii) Such applicant is acting within the scope of its jurisdiction in seeking access to swap data from a registered swap data repository.

(4) The Commission reserves the right, in connection with any appropriateness determination with respect to an Appropriate Domestic Regulator or Appropriate Foreign Regulator, to revisit, reassess, limit, suspend or revoke such determination consistent with the Act.

(i) *Delegation of authority relating to certain matters in this section.* (1) The Commission hereby delegates, until such time as the Commission orders otherwise, the following functions to the Director of the Division of Market Oversight and to such members of the Commission's staff acting under his or her direction as he or she may designate from time to time: All functions reserved to the Commission in this section.

(2) The Director of the Division of Market Oversight may submit any matter which has been delegated under paragraph (i)(1) of this section to the Commission for its consideration.

(3) Nothing in this section may prohibit the Commission, at its election, from exercising the authority delegated under paragraph (i)(1) of this section.

■ 5. Revise § 49.18 to read as follows:

§ 49.18 Confidentiality arrangement.

(a) *Confidentiality arrangement required prior to disclosure of swap data by a registered swap data repository to an Appropriate Domestic Regulator or Appropriate Foreign Regulator.* Prior to a registered swap data repository providing access to swap data to any Appropriate Domestic Regulator or Appropriate Foreign Regulator, each as defined in § 49.17(b), the swap data repository shall receive, pursuant to Section 21(d) of the Act, an executed confidentiality arrangement between the Commission and the Appropriate Domestic Regulator or Appropriate Foreign Regulator, as applicable, in the form set forth in Appendix B of this part or, at a minimum, containing the elements required in paragraph (b) of this section, from such Appropriate Domestic Regulator or Appropriate Foreign Regulator. Such confidentiality arrangement must include, either as Exhibit A to the form set forth in Appendix B of this part or similarly appended, a description of the Appropriate Domestic Regulator's or Appropriate Foreign Regulator's jurisdiction. Once a registered swap data repository is notified that a confidentiality arrangement received from an Appropriate Domestic Regulator or Appropriate Foreign Regulator no longer is in effect, the swap data repository shall not provide access to swap data to such Appropriate Domestic Regulator or Appropriate Foreign Regulator.

(b) *Elements of confidentiality arrangement.* The confidentiality arrangement required pursuant to paragraph (a) of this section shall, at a minimum, include all elements included in the form of confidentiality arrangement set forth in Appendix B of this part.

(c) *Reporting failures to fulfill the terms of a confidentiality arrangement.* A registered swap data repository shall immediately report to the Commission any known failure to fulfill the terms of a confidentiality arrangement that it receives pursuant to paragraph (a) of this section.

(d) *Failures to fulfill the terms of the confidentiality arrangement.* The Commission may, if an Appropriate Domestic Regulator or Appropriate Foreign Regulator fails to fulfill the terms of a confidentiality arrangement described in paragraph (a) of this section, direct each registered swap data repository to limit, suspend or revoke such Appropriate Domestic Regulator's or Appropriate Foreign Regulator's access to swap data held by such swap data repository.

(e) *Delegation of authority relating to certain matters in this section.* (1) The Commission hereby delegates, until such time as the Commission orders otherwise, the following functions to the Director of the Division of Market Oversight and to such members of the Commission's staff acting under his or her direction as he or she may designate from time to time: All functions reserved to the Commission in this section.

(2) The Director of the Division of Market Oversight may submit any matter which has been delegated under paragraph (e)(1) of this section to the Commission for its consideration.

(3) Nothing in this section may prohibit the Commission, at its election, from exercising the authority delegated under paragraph (e)(1) of this section.

■ 6. In § 49.22, revise paragraph (d)(4) to read as follows:

§ 49.22 Chief compliance officer.

* * * * *

(d) * * *

(4) Taking reasonable steps to ensure compliance with the Act and Commission regulations in this chapter relating to agreements, contracts, or transactions, and with Commission regulations in this chapter under Section 21 of the Act, including confidentiality arrangements received by the chief compliance officer's registered swap depository pursuant to § 49.18(a);

* * * * *

■ 7. Add Appendix B to part 49, to read as follows:

Appendix B to Part 49—Confidentiality Arrangement for Appropriate Domestic Regulators and Appropriate Foreign Regulators To Obtain Access To Swap Data Maintained by Registered Swap Data Repositories Pursuant to §§ 49.17(d)(6) and 49.18(a)

CONFIDENTIALITY ARRANGEMENT BETWEEN THE U.S. COMMODITY FUTURES TRADING COMMISSION AND [NAME OF FOREIGN/DOMESTIC REGULATOR] CONCERNING ACCESS TO SWAP DATA HELD AND MAINTAINED BY REGISTERED SWAP DATA REPOSITORIES

The U.S. Commodity Futures Trading Commission (''CFTC'') and the [*name of foreign/domestic regulator* (''ABC'')] (each an ''Authority'' and collectively the ''Authorities'') have entered into this Confidentiality Arrangement (''Arrangement'') in connection with [whichever is applicable] [CFTC Regulation 49.17(b)(1)[(i)–(vi)]/the determination order issued by the CFTC to [ABC] (''Order'')] and any request for swap data by [ABC] to any swap data repository (''SDR'') registered with the CFTC.

Article One: General Provisions

1. ABC is permitted to request and receive swap data directly from a registered SDR (''Swap Data'') on the terms and subject to the conditions of this Arrangement.

2. This Arrangement is entered into to fulfill the requirements under Section 21(d) of the Commodity Exchange Act (''Act'') and CFTC Regulation 49.18. Upon receipt by a registered SDR, this Arrangement will satisfy the requirement for a written agreement pursuant to Section 21(d) of the Act and CFTC Regulation 49.17(d)(6). This Arrangement does not apply to information that is [reported to a registered SDR pursuant to [ABC]'s regulatory regime where the SDR also is registered with [ABC] pursuant to separate statutory authority, even if such information also is reported pursuant to the Act and CFTC regulations][reported to a registered SDR pursuant to [ABC]'s regulatory regime where the SDR also is registered with, or recognized or otherwise authorized by, [ABC], which has supervisory authority over the repository pursuant to foreign law and/or regulation, even if such information also is reported pursuant to the Act and CFTC regulations.] [1]

3. This Arrangement is not intended to limit or condition the discretion of an Authority in any way in the discharge of its regulatory responsibilities or to prejudice the individual responsibilities or autonomy of any Authority.

4. This Arrangement does not alter the terms and conditions of any existing arrangements.

Article Two: Confidentiality of Swap Data

5. ABC will be acting within the scope of its jurisdiction in requesting Swap Data and employs procedures to maintain the confidentiality of Swap Data and any information and analyses derived therefrom (collectively, the ''Confidential Information''). ABC undertakes to notify the CFTC and each relevant SDR promptly of any change to ABC's scope of jurisdiction.

6. ABC undertakes to treat Confidential Information as confidential and will employ safeguards that:

a. To the maximum extent practicable, identify the Confidential Information and maintain it separately from other data and information;

b. Protect the Confidential Information from misappropriation and misuse;

c. Ensure that only authorized ABC personnel with a need to access particular Confidential Information to perform their job functions related to such Confidential Information have access thereto, and that such access is permitted only to the extent necessary to perform their job functions related to such particular Confidential Information;

d. Prevent the disclosure of aggregated Confidential Information; provided, however, that ABC is permitted to disclose any sufficiently aggregated Confidential Information that is anonymized to prevent identification, through disaggregation or otherwise, of a market participant's business transactions, trade data, market positions, customers or counterparties;

e. Prohibit use of the Confidential Information by ABC personnel for any improper purpose, including in connection with trading for their personal benefit or for the benefit of others or with respect to any commercial or business purpose; and

f. Include a process for monitoring compliance with the confidentiality safeguards described herein and for promptly notifying the CFTC, and each SDR from which ABC has received Swap Data, of any violation of such safeguards or failure to fulfill the terms of this Arrangement.

7. Except as provided in Paragraphs 6.d. and 8, ABC will not onward share or otherwise disclose any Confidential Information.

8. ABC undertakes that:

a. If a department, central bank, or agency of the Government of the United States, it will not disclose Confidential Information except in an action or proceeding under the laws of the United States to which it, the CFTC, or the United States is a party;

b. If a department or agency of a State or political subdivision thereof, it will not disclose Confidential Information except in connection with an adjudicatory action or proceeding brought under the Act or the laws of [*name of either the State or the State and political subdivision*] to which it is a party; or

c. If a foreign futures authority or a department, central bank, ministry, or agency of a foreign government or subdivision thereof, or any other Foreign Regulator, as defined in Commission Regulation 49.2(a)(5), it will not disclose Confidential Information except in connection with an adjudicatory action or proceeding brought under the laws of [*name of country, political subdivision, or (if a supranational organization) supranational lawmaking body*] to which it is a party.

9. Prior to complying with any legally enforceable demand for Confidential Information, ABC will notify the CFTC of such demand in writing, assert all available appropriate legal exemptions or privileges with respect to such Confidential Information, and use its best efforts to protect the confidentiality of the Confidential Information.

10. ABC acknowledges that, if it does not fulfill the terms of this Arrangement, the CFTC may direct any registered SDR to suspend or revoke ABC's access to Swap Data.

11. ABC will comply with all applicable security-related requirements imposed by an SDR in connection with access to Swap Data maintained by the SDR, as such requirements may be revised from time to time.

12. ABC will promptly destroy all Confidential Information for which it no longer has a need or which no longer falls within the scope of its jurisdiction, and will certify to the CFTC, upon request, that ABC has destroyed such Confidential Information.

Article Three: Administrative Provisions

13. This Arrangement may be amended with the written consent of the Authorities.

14. The text of this Arrangement will be executed in English, and may be made available to the public.

15. On the date this Arrangement is signed by the Authorities, it will become effective and may be provided to any registered SDR that holds and maintains Swap Data that falls within the scope of ABC's jurisdiction.

[1] The first bracketed paragraph will be used for ADRs; the second will be used for AFRs. The inapplicable paragraph will be deleted.

16. This Arrangement will expire 30 days after any Authority gives written notice to the other Authority of its intention to terminate the Arrangement. In the event of termination of this Arrangement, Confidential Information will continue to remain confidential and will continue to be covered by this Arrangement.

This Arrangement is executed in duplicate, this _____day of _____.

_____

[*name of Chairman*]
Chairman
U.S. Commodity Futures Trading Commission

_____

[*name of signatory*]
[*title*]
[*name of foreign/domestic regulator*]

[Exhibit A: Description of Scope of Jurisdiction. If ABC is not enumerated in Commission Regulations 49.17(b)(1)(i)–(vi), it must attach the Determination Order received from the Commission pursuant to Commission Regulation 49.17(h). If ABC is enumerated in Commission Regulations 49.17(b)(1)(i)–(vi), it must attach a sufficiently detailed description of the scope of ABC's jurisdiction as it relates to Swap Data maintained by SDRs.]

Issued in Washington, DC, on January 13, 2017, by the Commission.

Christopher J. Kirkpatrick,

Secretary of the Commission.

Note: The following appendices will not appear in the Code of Federal Regulations.

Appendices to Proposed Amendments to the Swap Data Access Provisions of Part 49 and Certain Other Matters—Commission Voting Summary and Chairman's Statement

Appendix 1—Commission Voting Summary

On this matter, Chairman Massad and Commissioners Bowen and Giancarlo voted in the affirmative. No Commissioner voted in the negative.

Appendix 2—Statement of Chairman Timothy G. Massad

The increased reporting of data on swaps transactions is an important reform of the derivatives markets agreed to by the G20 leaders in 2009. Today, thanks to this reporting, regulators across the globe are in a better position to assess exposures and risks related to this market. Because of the global nature of the market, it is critical for regulators to be able to share information, subject to appropriate confidentiality and other protections.

That's why I am pleased we are issuing this proposal, which will make it easier for other regulators, both domestic and foreign, to gain access to swap data repository (SDR) swap data. The proposal would conform our rules to various changes Congress made in the law and provide a process for sharing of information. Among other things, Congress removed a requirement that another regulator must indemnify both the Commission and the swap data repository for expenses related to litigation before data could be shared. To date, no domestic or foreign regulator has provided such an indemnification. Today's proposal removes this requirement in the CFTC's own rules, makes other changes consistent with Congressional action, and creates a process for when and how other regulators gain access to SDR information that will protect confidentiality.

I thank my fellow Commissioners Bowen and Giancarlo for their unanimous support for this proposal. I also thank the hardworking CFTC staff for all their efforts.

[FR Doc. 2017–01287 Filed 1–24–17; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2017–0005]

Federal Motor Vehicle Safety Standards; Automatic Emergency Braking

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Denial of petition for rulemaking.

SUMMARY: This document denies a January 13, 2016 rulemaking petition jointly submitted by Consumer Watchdog, Center for Auto Safety, and Public Citizen. The petition requested NHTSA to begin a rulemaking proceeding to mandate that all light vehicles be equipped with three types of automatic emergency braking (AEB) technologies: Forward crash warning, crash imminent braking, and dynamic brake support. NHTSA is denying the petition because the Agency has already taken significant steps to incentivize the installation of these technologies in a way that allows for continued innovation and technological advancement. First, NHTSA has expanded its New Car Assessment Program (NCAP) so that the NCAP information for a vehicle notes whether the vehicle is equipped with one or more of these technologies. Second, it has sought public comment on its plans to revise NCAP so that the presence and level of performance of these technologies affects the overall rating of light motor vehicles.

To reinforce these improvements to the NCAP program, NHTSA encouraged and facilitated a process that resulted in 20 light vehicle manufacturers, representing more than 99 percent of light motor vehicle sales in the United States, committing to voluntarily installing forward crash warning and crash imminent braking. While NHTSA's actions will help create availability and market push for AEB technologies, private sector organizations such as the Insurance Institute for Highway Safety and Consumer Reports are helping to create market pull through a variety of outreach activities that are helping consumers understand the benefits of AEB as well as differences among various vehicle models. Together with NCAP, the industry commitment and the actions of other stakeholders will lead to the installation of a growing array of AEB technologies in substantially all light vehicles and will foster innovation and competition in this technologically dynamic area. As the manufacturers respond to NCAP and carry out their commitments, the Agency is continuously monitoring their efforts to assess whether additional steps, including the possibility of a rulemaking to establish a new standard, might be needed in the future to ensure realization of the potential benefits from the full array of automatic emergency braking technologies.

DATES: January 18, 2017.

FOR FURTHER INFORMATION CONTACT:

For Non-Legal Issues: Mr. David Hines, Director, Office of Crash Avoidance Standards, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, Telephone: (202) 493–0245, Facsimile: (202) 493–2990.

For Legal Issues: Mr. Stephen P. Wood, Acting Chief Counsel, Office of Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, Telephone: (202) 366–2992, Facsimile: (202) 366–3820.

SUPPLEMENTARY INFORMATION:

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I. Background

A. National Traffic and Motor Vehicle Safety Act

The National Traffic and Motor Vehicle Safety Act (''Safety Act'') (49 U.S.C. 30101 *et seq.*) authorizes NHTSA to issue safety standards for new motor vehicles and new items of motor vehicle equipment. Each safety standard must be practicable, meet the need for motor vehicle safety, and be stated in objective terms. NHTSA does not endorse any vehicles or items of equipment. Further, NHTSA does not approve or certify vehicles or equipment. Instead, the Safety Act establishes a ''self-certification'' process under which each manufacturer is responsible for certifying that its products meet all applicable safety standards. Pursuant to the Safety Act and the Motor Vehicle Information and Cost Savings Act, the Agency also issues guidelines and establishes test procedures and rating systems to encourage the development and installation of additional and improved safety technologies under the New Car Assessment Program (NCAP) for light motor vehicles.

B. Automatic Emergency Braking Technologies

An Automatic Emergency Braking (AEB) system uses forward-looking sensors, typically radars and/or cameras, to detect objects, *e.g.,* vehicles, ahead on the roadway. There are three complementary types of automatic emergency braking technologies. They are listed below:

1. Forward Collision Warning (FCW)

FCW is a system that uses information from forward-looking sensors to determine whether or not a crash is likely or unavoidable and that, in such cases, warns the driver so the driver can brake and/or steer to avoid a crash or minimize the force of the crash. The system is based on two components: A sensing system capable of detecting a vehicle in front of the subject vehicle, and a warning system sending a signal to the driver. The sensing system consists of forward-looking radar, LIDAR,[1] camera systems, or a combination thereof. The sensor data are digitally processed by a computer software algorithm that determines whether an object it has detected poses a safety risk (*e.g.,* whether the object is a motor vehicle, etc.), determines if an impact with the detected object is imminent, decides if and when a warning signal should be sent to the driver, and finally, sends the warning signal. The warning may be a visual signal, such as a light on the dash, an audio signal, such as a chime or buzzer, or a haptic feedback signal that applies rapid vibrations or motions to the driver.

2. Crash Imminent Braking (CIB)

CIB is a system that uses information from forward-looking sensors to automatically apply the brakes in driving situations in which a crash is likely or unavoidable and the driver makes no attempt to avoid the crash. When an object in front of the driver's forward-moving vehicle is detected, a computer software algorithm reviews the available data from the input signal of the sensing system. If the algorithm determines that a rear-end crash with another motor vehicle is imminent, then a signal is sent to the electronic brake controller to automatically activate the brakes of the driver's vehicle.

3. Dynamic Brake Support (DBS)

DBS is a system that uses information from forward-looking sensors about driving situations in which a crash is likely or unavoidable to supplement automatically the output of the brakes when the DBS system senses that the force being applied by the driver to the brake pedal is insufficient to avoid the crash. FCW most often works in concert with DBS by first warning the driver of the situation and thereby providing the opportunity for the driver to initiate the necessary braking. If the driver's brake application is insufficient, DBS provides the additional braking needed to avoid or mitigate the crash.

DBS is similar to CIB; the difference is that CIB activates when the driver has not pressed on the brake pedal, and DBS activates when the driver has pressed on the brake pedal, but not hard enough.

C. Chronology of NHTSA actions and other events related to automatic emergency braking

July 2011—NHTSA added FCW to NCAP. (July 29, 2011; 76 Fed Reg 45453).

July 2012—NHTSA published a notice informing the public that the Agency had, for about two years, been studying advanced braking technologies that rely on forward-looking sensors to supplement driver braking or to actuate automatic braking in response to an impending crash. NHTSA stated that it believes these technologies show promise for enhancing vehicle safety by helping drivers to avoid crashes or mitigate the severity and effects of crashes. NHTSA solicited comments on the results of its research thus far to help guide its continued efforts in this area. (July 3, 2012; 77 FR 39561).

January 2015—NHTSA published a notice requesting public comments on Agency plans for adding CIB and DBS as recommended technologies to NCAP. (January 28, 2015; 80 FR 4630).

September 2015—NHTSA and the Insurance Institute for Highway Safety (IIHS) announced a commitment by 10 vehicle manufacturers to install FCW and CIB in their light motor vehicles.

October 2015—NHTSA published a notice granting a petition by Center for Auto Safety, Advocates for Highway and Auto Safety, and the Truck Safety Coalition to initiate a rulemaking to mandate the installation of FCW, CIB, and DBS in heavy trucks and other heavy vehicles. (October 16, 2015; 80 FR 62487).

November 2015—NHTSA published a final decision adding CIB and DBS as recommended technologies in NCAP, effective with model year 2018. FCW had previously been added to NCAP. Thus, if FCW, CIB or DBS were installed in a light motor vehicle, the NCAP information for that vehicle would note the presence of the technologies. However, the vehicle's overall NCAP score would not be affected. (November 5, 2015; 80 FR 68604).

December 2015—NHTSA published a notice requesting public comments on a new plan under which the scoring system would be revised such that, in the future, the installation and performance of FCW, CIB or DBS in a light motor vehicle would increase the vehicle's overall NCAP score. In addition, a pedestrian safety rating would be assigned to new vehicles, based on tests that determine how well the vehicles minimize injuries and fatalities to pedestrians. The rating would reflect the results from four crashworthiness pedestrian tests and the system performance tests of two advanced crash avoidance technologies that have the potential to avoid or mitigate crashes that involve a pedestrian and improve pedestrian safety—pedestrian AEB and rear automatic braking. (December 16, 2015; 80 FR 78521).

January 2016—Consumer Watchdog, Center for Auto Safety, and Public Citizen (''Petitioners'') submitted a petition for rulemaking (dated January

[1] LIDAR is a device that uses pulsed lasers to detect nearby stationary and moving objects in the driving environment, calculate their distance and direction, and help to create a digital representation of nearby objects and other driving environment features that will be used to determine what path it is safe for a vehicle to take.

13, 2016) asking NHTSA to initiate a rulemaking to mandate FCW, CIB, and DBS in all light motor vehicles.

March 2016—NHTSA and IIHS announced that 20 vehicle manufacturers, representing more than 99 percent of light motor vehicle sales in the United States, voluntarily committed to installing FCW and CIB in substantially all of their light motor vehicles.[2] Under their commitments, the manufacturers will make FCW and CIB standard on virtually all light cars and trucks with a gross vehicle weight of 8,500 lbs. or less beginning no later than September 1, 2022. FCW and CIB will be standard on substantially all trucks with a gross vehicle weight between 8,501 lbs. and 10,000 lbs., beginning no later than September 1, 2025. The manufacturers further committed to submitting annual reports on their implementation of their commitments. IIHS and NHTSA agreed to publish progress reports.

May 2016—Petitioners sent NHTSA a letter (dated May 23, 2016) asking the Agency to either grant or deny their petition.

II. Petition

Petitioners submitted a petition for rulemaking, dated January 13, 2016, requesting NHTSA to initiate a rulemaking to issue a safety standard requiring that light vehicles be equipped with three AEB technologies: FCW, CIB and DBS. Based on their petition and their follow-up letter submitted in May 2016, it appears that the petitioners further intend that the Agency include in that rulemaking all of the tests, including test speeds, either adopted or planned for inclusion in NCAP or developed through Agency research projects. Alternatively, the petitioners ask that the Agency explain why it was not including any of those tests.

In support of their petition, petitioners stated the following:

- It is feasible to issue a light motor vehicle AEB standard now given that the technologies are mature and NHTSA has: Researched the AEB technologies extensively; granted a petition for rulemaking for heavy vehicle AEB; incorporated FCW and CIB into NCAP and announced plans to incorporate the third AEB technology, DBS, in NCAP.
- Neither a voluntary commitment nor NCAP is an adequate substitute for a safety standard because neither is enforceable.
- The commitment is not comprehensive or stringent enough. It does not include DBS. Further, with respect to FCW and CIB, the commitment does not include some of the performance requirements included in NCAP. In addition, while the commitment includes other performance requirements, it does so at reduced levels of stringency.

III. NHTSA's Consideration of the Petition

A. General Principles

Petitions for rulemaking are governed by 49 CFR part 552. Pursuant to Part 552, the Agency conducts a technical review of the petition, which may consist of an analysis of the material submitted, together with information already in possession of the Agency. In deciding whether to grant or deny a petition, the Agency considers this technical review as well as appropriate factors, which may include, among others, allocation of Agency resources and Agency priorities.

B. Context for Considering the Petition

1. Overview of Vehicle Safety in the United States

Two sets of numbers serve to convey the state of vehicle safety and identify the way forward. First, in 2015, 35,092 people lost their lives on the Nation's roadways, making motor vehicle crashes a leading cause of death in the United States. That was an increase of more than 7 percent over the total for 2014. Preliminary figures indicate that, for the first nine months of 2016, fatalities were up again, approximately 8 percent, compared to the same portion of 2015.[3] The third quarter of 2016 represents the eighth consecutive quarter with increases in fatalities as compared to the corresponding quarters in the previous years.[4]

Second, 94 percent of vehicle crashes can be traced to human choices (*e.g.,* choices about safety belt use or consumption of alcohol) or error. If there were technological means to prevent those human choices or behaviors from affecting vehicle safety, we could potentially prevent or mitigate 19 of every 20 crashes on the road.

2. Technologies for Improving Vehicle Safety Performance and Tools for Implementing Them

Automated vehicles, which depend on technologies like automatic emergency braking, hold the promise of being the means that will prevent human choice or error from causing crashes. That is why NHTSA and the Department of Transportation have focused on trying to accelerate the safe development and deployment of highly automated and connected vehicles.[5] Vehicle automation and connectedness could cut roadway fatalities dramatically.

To realize this potential, NHTSA has a variety of tools that it has used in the past to improve vehicle safety. The primary traditional approach to improving vehicle safety has been developing and writing new standards prescribing detailed, specific requirements and test procedures and then conducting a notice-and-comment rulemaking process to adopt and implement those standards.

However, because many modern vehicle safety technologies are software-controlled and still relatively new, they are evolving very quickly. Standard setting at this early stage of technological evolution must be undertaken with great care, given the risk of inadvertently stymieing innovation and stalling the development and introduction of successively better versions of these technologies.

Further, rulemaking, and the research that must precede it in order to select the appropriate thresholds of performance and the test procedures for measuring compliance, take considerable time, often six to ten years

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[2] The making of the commitments was preceded by a series of meetings in late 2015 and early 2016 attended by the representatives of the following:

Automakers

BMW, Fiat-Chrysler, Ford, General Motors, Honda, Hyundai-Kia, Jaguar Land-Rover, Mazda, Mercedes Benz, Mitsubishi, Nissan, Subaru, Tesla, Toyota, Volkswagen\Audi, Volvo

Government Agencies

National Highway Traffic Safety Administration, Transport Canada

Non-Government Organizations

Alliance of Automobile Manufacturers, Association of Global Automakers, Insurance Institute for Highway Safety

To keep the public informed about the progress on developing the commitments, the agency prepared minutes of the meetings and placed them in docket NHTSA–2015–0101, available at *www.regulations.gov.* The minutes for the 6th meeting on February 1, 2016, also recounted a January 29, 2016 meeting with other stakeholder groups: Advocates for Highway and Auto Safety, Automotive Safety Council, Consumer Federation of American, Consumer Reports, Consumer Watchdog, Public Citizen and Transport Canada.

[3] Early Estimate of Motor Vehicle Traffic Fatalities For the First 9 Months of 2016. DOT HS 812 358. January 2017.

[4] Ibid.

[5] Connected vehicles are vehicles equipped with mean of exchanging ''here I am'' messages on portions of spectrum set aside by FCC for that purpose. The message includes, *e.g.,* speed, direction and GPS determined vehicle location. Vehicle can be equipped with software that analyzes messages from nearby vehicles to determine which vehicles may be on a collision course with it and warn the vehicle's driver when necessary to avoid a collision. For more information, see 82 FR 3854; January 12, 2017, available at *https://www.gpo.gov/fdsys/pkg/FR-2017-01-12/pdf/2016-31059.pdf.*

for full implementation in new vehicles. The increasing complexity of vehicle safety technologies factors into the lengthening of the Agency's rulemaking proceedings. In the immediate term, through proactive collaboration with industry and other stakeholders, much has been and can be accomplished.

Accordingly, the Agency has sought to adapt the lessons and practices of the Federal Aviation Administration and the aviation industry regarding proactive safety and apply them, where appropriate, to the motor-vehicle sector. The Agency has revamped or expanded its use of its non-rulemaking tools in an effort to be more responsive to safety issues and more proactive about preventing them.

For several decades, NHTSA used NCAP to encourage light vehicle manufacturers to offer, and consumers to demand, levels of crash protection above and beyond those required by the safety standards. In recent years, the Agency has begun to expand NCAP to encourage the installation of safety-focused advanced crash avoidance systems.

More recently, the Agency has begun issuing guidance documents to promote the development and adoption of safer designs of evolving, complex electronic vehicle safety systems. Guidance documents are more adaptive tools than standards with respect to the ease of being updated to reflect the latest developments in these technologies. The prime example to date of Agency guidance is the vehicle performance guidance for automated vehicles included in the Federal Automated Vehicles Policy [6] issued in September 2016. This Policy is the right tool at the right time. It answers a call from industry, state and local governments, safety and mobility advocates and many others to lay a clear path forward for the safe development and deployment of automated vehicles and technologies. This Policy also allows NHTSA to work with automakers and developers on the front end, to ensure that sound approaches to safety are followed from the very beginning and throughout the entire design and development process. Further, this Policy will help us accomplish two goals: First, to make sure that new technologies are developed and deployed safely; and second, to leave room for flexibility and safety innovation.

C. Analysis of the Petition

NHTSA shares the petitioners' belief that AEB technologies will lead to important safety benefits. These technologies are vital to automated vehicles. NHTSA has already invested substantial resources and taken significant steps to increase the installation of these technologies by expanding NCAP and facilitating a process that resulted in light vehicle manufacturers committing voluntarily to install forward crash warning and crash imminent braking.

Based on its consideration and analysis of the petition, NHTSA notes the following points:

1. NCAP is influencing light vehicle manufacturers to increase their installation of AEB technologies and to improve their performance.

NHTSA has already added FCW, CIB and DBS to NCAP to promote the installation of those and other advanced crash avoidance technologies. In addition, in December 2015, NHTSA requested comments on revising the NCAP scoring system so that the installation of FCW, CIB or DBS in a motor vehicle would increase that vehicle's overall NCAP score. These revisions are already promoting wider spread installation of a broad array of these technologies.

2. The complementary commitments made by light vehicle manufacturers and the ratings programs of IIHS and Consumer Reports are magnifying the effects of NCAP.

The monitoring of the industry commitment shows that there has been an upturn in the rate of AEB installation.

3. The combined effects of the above activities are expected to produce benefits substantially similar to those that would eventually result from the rulemaking requested by the petitioners.

The Agency believes that the benefits of the AEB aspects of NCAP, in combination with the benefits of the industry commitment and the stakeholder rating programs, would be substantially similar to the benefits of the rulemaking requested by the petitioners. The petitioners did not make any showing to the contrary.

4. The Agency does not have evidence before it showing that there is a market failure warranting the initiating of rulemaking.

One of the principles of regulation in Executive Order 12866, Regulatory Planning and Review, is that agencies seeking to initiate rulemaking should identify the market failure that necessitates regulation. At the current time, on account of the combined effects of NCAP, the industry commitment, and various stakeholder rating programs, there is not any evidence showing that there is a market failure with respect to the offering of AEB technologies.

5. These activities will make AEB standard on new light vehicles faster than could be achieved through the formal regulatory process.

Based on the Agency's rulemaking proceedings on complex issues in recent years, if the Agency were to grant the petition, conduct research, tentatively select required levels of performance, conduct a notice-and-comment rulemaking and provide sufficient leadtime to enable manufacturers to phase-in compliance, the delay in making AEB standard equipment on light vehicles would be as many as three years, and possibly longer.[7]

6. Making AEB standard equipment earlier than could be achieved through rulemaking will provide significant additional safety benefits.

According to IIHS estimates made in March 2016, the benefits of making AEB standard equipment three years earlier will be to prevent 28,000 crashes and 12,000 injuries during that time period.[8]

7. Given the success of light vehicle AEB activities described above and the large array of rulemakings either mandated by Congress or initiated by the Agency in response to petitions or at the Agency's discretion, the Agency should place priority at this time on conducting rulemakings in areas other than light-vehicle AEB.

Among the higher priority rulemakings is the one on light vehicle vehicle-to-vehicle communication, for which the agency recently published a notice of proposed rulemaking, and heavy vehicle AEB. As noted above, in late 2015, NHTSA granted a petition for rulemaking to initiate rulemaking on heavy vehicle AEB. In addition, the Agency is involved in some nonrulemaking activities that are of higher priority, such as the continued expansion and strengthening of NCAP and the issuance of guidance in areas such as automated vehicles, driver distraction and cybersecurity.

8. A rulemaking can be commenced later if it proves necessary.

As the manufacturers carryout their commitments, the Agency will continuously monitor their efforts and assess whether and when additional steps, including rulemaking, might be needed in the future to ensure realization of the potential benefits from the full array of automatic emergency braking technologies.

[6] Available at *https://one.nhtsa.gov/nhtsa/av/av-policy.html.*

[7] NHTSA press release issued March 17, 2016, available at *https://www.nhtsa.gov/press-releases/us-dot-and-iihs-announce-historic-commitment-20-automakers-make-automatic-emergency.*

[8] Ibid.

IV. Conclusion

In accordance with 49 CFR part 552, and for the forgoing reasons, NHTSA hereby denies, without prejudice, the January 13, 2016 petition by Consumer Watchdog, Center for Auto Safety, and Public Citizen to commence a rulemaking proceeding to require all light vehicles to be equipped with FCW, CIB and DBS.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30162; delegation of authority at 49 CFR 1.95.

Issued in Washington, DC, under authority delegated in 49 CFR 1.95.

Raymond R. Posten,

Associate Administrator for Rulemaking.

[FR Doc. 2017–01542 Filed 1–24–17; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register
Vol. 82, No. 15
Wednesday, January 25, 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

January 19, 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 February 24, 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), *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.

Food and Nutrition Service

Title: Supplemental Nutrition Assistance Program Regulations, Part 275—Quality Control.

OMB Control Number: 0584–0303.

Summary of Collection: Section 16 of the Food and Nutrition Act of 2008 (the Act), provides the legislative basis for the operation of the Supplemental Nutrition Assistance Program (SNAP) Quality Control (QC) system. The Food and Nutrition Service (FNS), as administrator of the SNAP, requires each State agency to develop a sampling plan that demonstrates the integrity of its case selection procedures. The QC system is designed to measure each State agency's payment error rate based on a statistically valid sample of SNAP cases. The QC system contains procedures for resolving differences in review findings between State agencies and FNS (arbitration process). The QC system also contains procedures that provide relief for State agencies when a State agency can demonstrate that a part or all of an excessive error rate was due to an unusual event that had an uncontrollable impact on the State agency's payment error rate (good cause process). Additionally, State agencies are required to maintain case records for three years to ensure compliance with provisions of the Food and Nutrition Act of 2008.

Need and Use of the Information: The quality control information collection is necessary to meet the requirements of Section 16 of the Act, which requires USDA to establish a system that enhances payment accuracy and improves administration by determining payment error rates, liabilities and performance bonuses.

Description of Respondents: State, Local, or Tribal Government; Federal Government.

Number of Respondents: 53.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Annually.

Total Burden Hours: 2,268.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2017–01641 Filed 1–24–17; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Request Revision and Extension of a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the National Agricultural Statistics Service (NASS) to request revision and extension of a currently approved information collection, the Agricultural Surveys Program. Revision to burden hours will be needed due to changes in the size of the target population, sampling design, and/or questionnaire length.

DATES: Comments on this notice must be received by March 27, 2017 to be assured of consideration.

ADDRESSES:

- *Email: ombofficer@nass.usda.gov.* Include the docket number above in the subject line of the message.
- *Efax:* (855) 838–6382.
- *Mail:* Mail any paper, disk, or CD–ROM submissions to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW., Washington, DC 20250–2024.
- *Hand Delivery/Courier:* Hand deliver to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW., Washington, DC 20250–2024.

FOR FURTHER INFORMATION CONTACT: R. Renee Picanso, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–4333. Copies of this information collection and related instructions can be obtained without charge from David Hancock, NASS–OMB Clearance Officer, at (202) 690–2388 or at *ombofficer@nass.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Agricultural Surveys Program.

OMB Control Number: 0535–0213.

Expiration Date of Approval: June 30, 2017.

Type of Request: To revise and extend a currently approved information collection for a period of three years.

Abstract: The primary objective of the National Agricultural Statistics Service (NASS) is to collect, prepare and issue State and national estimates of crop and livestock production, prices and disposition as well as economic statistics, farm numbers, land values, on-farm pesticide usage, pest crop management practices, as well as the Census of Agriculture. The Agricultural Surveys Program contains a series of surveys that obtains basic agricultural data from farmers, ranchers, and feedlots throughout the Nation for preparing agricultural estimates and forecasts of crop acreage, yield, and production; stocks of grains and soybeans; hog and pig numbers; sheep inventory and lamb crop; cattle inventory; cattle on feed; grazing fees; and land values. Uses of the statistical information collected by these surveys are extensive and varied. Producers, farm organizations, agribusinesses, commodity exchanges, State and national farm policy makers, and government agencies are important users of these statistics. Agricultural statistics are used to plan and administer other related Federal and State programs in such areas as consumer protection, conservation, foreign trade, education, and recreation.

These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985, as amended, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995 Public Law 104–13 (44 U.S.C. 3501, *et seq.*) and Office of Management and Budget regulations at 5 CFR part 1320. NASS also complies with OMB Implementation Guidance, ''Implementation Guidance for Title V of the E-Government Act, Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA),'' **Federal Register**, Vol. 72, No. 115, June 15, 2007, p. 33362.

Estimate of Burden: Public reporting burden for this collection of information will range from 5 to 30 minutes per response.

Respondents: Farmers, Ranchers and Feed Lots.

Estimated Number of Respondents: 515,000.

Estimated Total Annual Burden on Respondents: 205,000 hours.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, through the use of appropriate automated, electronic, mechanical, technological or other forms of information technology collection methods. All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, January 12, 2017.

R. Renee Picanso,

Associate Administrator.

[FR Doc. 2017–01666 Filed 1–24–17; 8:45 am]

BILLING CODE 3410–20–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Arkansas Advisory Committee for an Orientation Meeting and To Discuss Civil Rights Topics in the State

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Arkansas Advisory Committee (Committee) will hold a meeting on Monday, February 13, 2017, at 12:00 noon CST for the purpose of committee orientation and a discussion on civil rights topics affecting the state.

DATES: The meeting will be held on Monday, February 13, 2017, at 12:00 noon. CST.

Public Call Information: Dial: 888–395–3241, Conference ID: 8639876.

FOR FURTHER INFORMATION CONTACT: David Barreras, DFO, at *dbarreras@usccr.gov* or 312–353–8311.

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 888–395–3241, conference ID: 8639876. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Midwestern Regional Office, U.S. Commission on Civil Rights, 55 W. Monroe St., Suite 410, Chicago, IL 60615. They may also be faxed to the Commission at (312) 353–8324, or emailed to Carolyn Allen at *callen@usccr.gov.* Persons who desire additional information may contact the Midwestern Regional Office at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Midwestern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Arkansas Advisory Committee link (*http://www.facadatabase.gov/committee/meetings.aspx?cid=236*). Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Midwestern Regional Office at the above email or street address.

Agenda

Welcome and Introductions
Committee Orientation
Civil Rights Topics in Arkansas
Public Comment
Future Plans and Actions: Civil Rights in Arkansas
Adjournment

Dated: January 18, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–01600 Filed 1–24–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Proposed Information Collection; Comment Request; Challenge and Prize Competition Solicitations Generic Clearance

AGENCY: Office of the Secretary, Department of Commerce.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, the Office of the Secretary (OS), Department of Commerce, is publishing the following summary of a proposed information collection request for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: 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: Written comments must be submitted on or before March 27, 2017.

ADDRESSES: Written comments may be submitted to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *PRAcomments@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the Information Collection Clearance staff at *PRAcomments@doc.gov,* or mailed to the PRA Clearance Office at 1401 Constitution Ave. NW., Washington, DC 20230, Room 6616.

SUPPLEMENTARY INFORMATION:

Proposed Project: Descriptive information of solutions provided to the Federal government in response to Challenge and Competition solicitations posted on *Challenge.gov.—OMB Control Number:* 0690–XXXX (New collection), Office of the Secretary.

Abstract: This request, pursuant to the requirement of section 3506(c)(2)(A) of the PRA, is to seek generic clearance for the collection of routine information requested of responders to solicitations the Federal government makes during the issuance of challenges and competitions posted on the General Service Administration (GSA)'s *Challenge.gov* Web site. Since passage of the America COMPETES Act of 2011. In order for DOC to quickly and effectively launch competitions on a continual basis, DOC seeks generic clearance to collect information for these challenges and competitions, which will generally include first name, last name, email, city, state and when applicable other demographic information. It can also include other information necessary to evaluate submissions and understand their impact related to the general goals of the competition. Upon entry or during the judging process, applicants under the age of 18 may be asked to confirm parental consent, requiring students under 18 to have a parent signature in writing on a parental consent form provided by the Department in order to qualify for the contest. For certain challenges we may also need to collect data such as types of data sets used in the solution, types of software tools used in the solution, and information regarding uses of proprietary software (*i.e.,* licenses or use agreements). Information obtained from participants will be used by the program managers (challenge manager), other agency officials (such as general counsel representatives) and in some cases the technical reviewers acting on behalf of the program manager (challenge manager).

Need and Proposed Use of the Information: In 2011, Federal agencies including DOC were given prize authority for administering challenges and competitions. Section 105(a) of the America Competes Act, adds Section 24 to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 *et seq.*) that addresses provisions for challenges and competitions with prizes conducted by Federal agencies. Challenges and competitions enable DOC to tap into the expertise and creativity of the public in new ways. DOC has sponsored challenges and competitions in a wide variety of areas to increase public participation and solicit new ideas on a wide array of topics important to the agencies mission. DOC's goal is to engage a broader number of stakeholders who are inspired to work on some of our most pressing issues.

The information collected will be used to understand whether the participant has met the technical requirements for the challenge, assist in the technical review and judging of the solutions that are provided, and understand the impact and consequences of administering the competition and developing solutions for submission. Information may be collected during the competition or after its completion. The submissions are evaluated by the submitting agency and typically prizes (monetary and non-monetary) are awarded to the winning entries.

This clearance applies to challenges posted on Challenge.gov, which uses a common platform for the solicitation of challenges from the public. Each agency designs the criteria for its solicitations based on the goals of the challenge and the specific needs of the agency. There is no standard submission format for solution providers to follow.

We anticipate that approximately 250 challenges would be issued each year by DOC. It is expected that other federal agencies will issue a similar number of challenges. There is no set schedule for the issuance of challenges; they are developed and issued on an ''as needs'' basis in response to issues the federal agency wishes to solve. The respondents to the challenges, who are participating voluntarily, are unlikely to reply to more than one or several of the challenges.

Although in previous memoranda the GSA and Office of Management and Budget (OMB) described circumstances whereby OMB approval of a PRA request is not needed, program officials at DOC have identified several sets of information that will typically need to be requested of solution providers to enable the solutions to be adequately evaluated by the federal agency issuing the challenge. These requests for additional information have been suggested to require a PRA review as they represent structured data requests.

There are three types of additional data that will be routinely requested by the federal agencies. These include the following:

Title and/or Subject of the submission. Due to the nature of the submission and evaluation processes, it is important that a title and/or subject be requested and submitted for each submission in order to ensure the solution is correctly identified with its provider.

Identification of data resources. In many cases, the solution to a problem will require the solution provider to use data resources. Often, the nature of the data sets will be derived from Federal data resources, such as *data.gov.* Evaluations of solutions will often depend on the understanding of the selection of the data resource(s) used in the solution.

Description of methodology. For effective judging and evaluation, a description of the development methods for the solution to the challenge will be requested. For instance, a prize may be awarded to the solution of a challenge to develop an algorithm that enables

reliable prediction of a certain event. A responder could submit the correct algorithm, but without the methodology, the evaluation process could not be adequately performed.

ESTIMATED ANNUALIZED BURDEN TABLE

Forms	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Individuals or Households	500	1	10/60	83.3
Organizations	500	1	10/60	83.3
Businesses	500	1	10/60	83.3
State, territory, tribal or local governments	30	1	10/60	5
Federal government	30	1	10/60	5
Total	1,560			255

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Sheleen Dumas,

PRA Departmental Lead, Office of the Chief Information Officer.

[FR Doc. 2017–01682 Filed 1–24–17; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–66–2016]

Foreign-Trade Zone (FTZ) 44H—East Hanover, New Jersey; Authorization of Production Activity; Givaudan Flavors Corporation (Flavor Products); East Hanover, New Jersey

On September 20, 2016, Givaudan Flavors Corporation submitted a notification of proposed production activity to the Foreign-Trade Zones (FTZ) Board for its facility within Subzone 44H in East Hanover, New Jersey.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (81 FR 69782, October 7, 2016). The FTZ Board has determined that no further review of the activity is warranted at this time. The production activity described in the notification is authorized, subject to the FTZ Act and the Board's regulations, including Section 400.14.

Dated: January 17, 2017.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2017–01707 Filed 1–24–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–038]

Antidumping Duty Investigation of Certain Amorphous Silica Fabric From the People's Republic of China: Final Affirmative Determination of Sales at Less-Than-Fair Value, and Final Affirmative Determination of Critical Circumstances

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

SUMMARY: The Department of Commerce (the Department) determines that imports of certain amorphous silica fabric (silica fabric) from the People's Republic of China (the PRC) are being, or are likely to be, sold in the United States at less than fair value (LTFV). In addition, we determine that critical circumstances exist with respect to imports of the subject merchandise. The period of investigation (POI) is July 1, 2015, through December 31, 2015. The final dumping margins for this investigation are listed in the ''Final Determination Margins'' section of this notice.

DATES: Effective January 25, 2017.

FOR FURTHER INFORMATION CONTACT: Scott Hoefke or Fred Baker, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–4947 or (202) 482–2924, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the *Preliminary Determination* in the LTFV investigation of silica fabric from the PRC on September 1, 2016.[1]

A summary of the events that occurred since the Department published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.[2] The Issues and Decision Memorandum is a public document, and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.*

Scope of the Investigation

The product covered by this investigation is woven industrial grade amorphous silica fabric from the PRC. For a complete description of the scope of this investigation, see the ''Scope of the Investigation,'' in Appendix I. Since the *Preliminary Determination,* no party commented on the scope of the

[1] *See Antidumping Duty Investigation of Certain Amorphous Silica Fabric From the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value, Preliminary Affirmative Determination of Critical Circumstances, and Postponement of Final Determination,* 81 FR 60341 (September 1, 2016) (*Preliminary Determination*).

[2] *See* Memorandum from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Antidumping Duty Investigation of Amorphous Silica Fabric from the People's Republic of China: Issues and Decision Memorandum for the Final Determination of Sales at Less-Than-Fair-Value'' (Issues and Decision Memorandum), dated concurrently with this determination and hereby adopted by this notice.

investigation. The scope in Appendix I reflects the final unmodified scope language as it appeared in the *Preliminary Determination.*

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), in September and October 2016, we conducted verification of the sales and factors of production information submitted by ACIT (Pinghu) Inc. (ACIT), and its U.S. affiliate, ACIT USA Inc. (ACIT USA). We issued a verification report on November 16, 2016.[3] We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by ACIT and ACIT USA.[4]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs that were submitted by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of these issues is attached to this notice as Appendix II.

Changes to the Dumping Margin Calculations Since the Preliminary Determination

Based on the Department's analysis of the comments received and findings at verification, we made certain changes to our dumping margin calculations. For a discussion of these changes, *see* the Issues and Decision Memorandum.

Final Affirmative Determination of Critical Circumstances

In accordance with section 735(a)(3) of the Act and 19 CFR 351.206, we continue to find that critical circumstances exist with respect to imports of silica fabric from ACIT, Nanjing Tianyuan Fiberglass Material Co., Ltd. (Nanjing Tianyuan), and the PRC-wide entity.[5]

Use of Adverse Facts Available

For the reasons discussed in the *Preliminary Determination,* we continue to find that the PRC-wide entity and Nanjing Tianyuan failed to cooperate to the best of their ability.[6] Additionally, we find for the final determination that ACIT failed to cooperate to the best of its ability.[7] Accordingly, pursuant to sections 776(a)(2)(A), (B), (C), and (D) and section 776(b) of the Act, we have assigned to ACIT, Nanjing Tianyuan, and the PRC-wide entity, the dumping margins in the table below, which are based on total adverse facts available.[8]

Combination Rates

In the *Initiation Notice,*[9] the Department stated that it would calculate combination rates for PRC respondents that are eligible for separate rate in this investigation.[10] Accordingly, we have assigned combination rates to ACIT and Nanjing Tianyuan.

Final Determination

The Department determines, as provided in section 735 of the Act, that the following estimated weighted-average dumping margins exist for the period July 1, 2015, through December 31, 2015:

Exporter	Producer	Margin (percent)	Cash deposit (percent)
ACIT (Pinghu) Inc.	ACIT (Pinghu) Inc.	162.47	151.93
Nanjing Tianyuan Fiberglass Material Co., Ltd	Nanjing Tianyuan Fiberglass Material Co., Ltd	162.47	151.71
PRC-Wide Entity		162.47	151.93

Continuation of Suspension of Liquidation

In accordance with section 735(c)(4)(A) of the Act, for the final determination, the Department will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of silica fabric from the PRC as described in the ''Scope of the Investigation'' section which were entered, or withdrawn from warehouse, for consumption 90 days prior to the date of publication in the **Federal Register** of the affirmative *Preliminary Determination,* pursuant to section 733(e)(2) of the Act.

Further, pursuant to section 735(c)(1)(B)(ii) of the Act, the Department will instruct CBP to require a cash deposit [11] equal to the amount by which the normal value exceeds U.S. price, adjusted where appropriate for export subsidies and estimated domestic subsidy pass-through. For all combinations of PRC exporters/producers of merchandise under consideration, the cash deposit rate will be equal to the dumping margin established for the PRC-wide entity.

Consistent with our practice, where the product under investigation is also subject to a concurrent countervailing duty investigation, we will instruct CBP to require a cash deposit equal to the amount by which the normal value exceeds the export price or constructed export price, adjusted where appropriate for export subsidies and estimated domestic subsidy pass-through.[12] In the companion CVD proceeding, the Department found for ACIT an export subsidy of 10.54 percent *ad valorem* and for Nanjing Tianyuan an export subsidy of 10.76 percent *ad valorem.*[13] In this LTFV investigation,

[3] *See* Memorandum to the File: ''Verification of the Questionnaire Responses of ACIT (Pinghu) Inc. in the Antidumping Investigation of Certain Amorphous Silica Fabric from the People's Republic of China,'' dated November 16, 2016.

[4] *See* Memorandum to the File: ''CEP Verification of the Questionnaire Responses of ACIT (USA) Inc. in the Antidumping Investigation of Certain Amorphous Silica Fabric from the People's Republic of China,'' dated November 22, 2016.

[5] *See Preliminary Determination; see also* Issues and Decision Memorandum at Comment 2.

[6] *See Preliminary Determination,* and accompanying Preliminary Decision Memorandum at 13–18.

[7] *See* Issues and Decision Memorandum at Comment 1.

[8] *See* Issues and Decision Memorandum.

[9] *See Certain Amorphous Silica Fabric From the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation,* 81 FR 8913 (February 23, 2016) (*Initiation Notice*).

[10] *See* Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, ''Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries,'' dated April 5, 2005 (Policy Bulletin 05.1), available on the Department's Web site at *http://enforcement.trade.gov/policy/bull05-1.pdf,* which describes this practice.

[11] *See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations,* 76 FR 61042 (October 3, 2011).

[12] *See* sections 772(c)(1)(C) and 777A(f) of the Act, respectively. Unlike in administrative reviews, the Department makes an adjustment for export subsidies in an LTFV investigation not in the calculation of the weighted-average dumping margin, but in the cash deposit instructions issued to U.S. Customs and Border Protection. *See Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India,* 71 FR 45012 (August 8, 2006), and accompanying Issues and Decision Memorandum at Comment 1.

[13] *See Countervailing Duty Investigation of Certain Amorphous Silica Fabric From the People's*

for the PRC-wide entity, which received an AFA rate, pursuant to section 776(b) of the Act, the Department has adjusted the PRC-wide entity's AD cash deposit rate by the lowest export subsidy rate determined for any party in the companion CVD proceeding.[14] Thus, we will offset the PRC-wide rate of 162.47 by the countervailing duty rate attributable to export subsidies of ACIT (*i.e.,* 10.54 percent) to calculate the cash deposit rate.[15] These adjustments are reflected in the final column of the rate chart, above. Furthermore, we are not adjusting the final determination for estimated domestic subsidy pass-through because the respondents failed to substantiate a cost-to-price-link.[16] In the event that a countervailing duty order is issued and suspension of liquidation continues in the companion countervailing duty investigation on silica fabric from the PRC, the Department will continue to instruct CBP to require cash deposits adjusted by the amount of export subsidies, as appropriate.

Disclosure

Because all final dumping margins are based on total AFA, no disclosure of calculations is necessary for this final determination.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of our final affirmative determination of sales at LTFV and final affirmative determination of critical circumstances. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of silica fabric from the PRC no later than 45 days after our final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Orders

This notice will serve as a reminder to the 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. Timely written notification of 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.

We are issuing and publishing this determination in accordance with sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

Dated: January 17, 2017.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The product covered by this investigation is woven (whether from yarns or rovings) industrial grade amorphous silica fabric, which contains a minimum of 90 percent silica (SiO2) by nominal weight, and a nominal width in excess of 8 inches. The investigation covers industrial grade amorphous silica fabric regardless of other materials contained in the fabric, regardless of whether in roll form or cut-to-length, regardless of weight, width (except as noted above), or length. The investigation covers industrial grade amorphous silica fabric regardless of whether the product is approved by a standards testing body (such as being Factory Mutual (FM) Approved), or regardless of whether it meets any governmental specification.

Industrial grade amorphous silica fabric may be produced in various colors. The investigation covers industrial grade amorphous silica fabric regardless of whether the fabric is colored. Industrial grade amorphous silica fabric may be coated or treated with materials that include, but are not limited to, oils, vermiculite, acrylic latex compound, silicone, aluminized polyester (Mylar®) film, pressure-sensitive adhesive, or other coatings and treatments. The investigation covers industrial grade amorphous silica fabric regardless of whether the fabric is coated or treated, and regardless of coating or treatment weight as a percentage of total product weight. Industrial grade amorphous silica fabric may be heat-cleaned. The investigation covers industrial grade amorphous silica fabric regardless of whether the fabric is heat-cleaned.

Industrial grade amorphous silica fabric may be imported in rolls or may be cut-to-length and then further fabricated to make welding curtains, welding blankets, welding pads, fire blankets, fire pads, or fire screens. Regardless of the name, all industrial grade amorphous silica fabric that has been further cut-to-length or cut-to-width or further finished by finishing the edges and/or adding grommets, is included within the scope of this investigation.

Subject merchandise also includes (1) any industrial grade amorphous silica fabric that has been converted into industrial grade amorphous silica fabric in China from fiberglass cloth produced in a third country; and (2) any industrial grade amorphous silica fabric that has been further processed in a third country prior to export to the United States, including but not limited to treating, coating, slitting, cutting to length, cutting to width, finishing the edges, adding grommets, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope industrial grade amorphous silica fabric.

Excluded from the scope of the investigation is amorphous silica fabric that is subjected to controlled shrinkage, which is also called ''pre-shrunk'' or ''aerospace grade'' amorphous silica fabric. In order to be excluded as a pre-shrunk or aerospace grade amorphous silica fabric, the amorphous silica fabric must meet the following exclusion criteria: (l) The amorphous silica fabric must contain a minimum of 98 percent silica (SiO2) by nominal weight; (2) the amorphous silica fabric must have an areal shrinkage of 4 percent or less; (3) the amorphous silica fabric must contain no coatings or treatments; and (4) the amorphous silica fabric must be white in color. For purposes of this scope, ''areal shrinkage'' refers to the extent to which a specimen of amorphous silica fabric shrinks while subjected to heating at 1800 degrees F for 30 minutes.[17]

Also excluded from the scope are amorphous silica fabric rope and tubing (or sleeving). Amorphous silica fabric rope is a knitted or braided product made from amorphous silica yarns. Silica tubing (or sleeving) is braided into a hollow sleeve from amorphous silica yarns.

The subject imports are normally classified in subheadings 7019.59.4021, 7019.59.4096, 7019.59.9021, and 7019.59.9096 of the Harmonized Tariff Schedule of the United States (HTSUS), but may also enter under HTSUS subheadings 7019.40.4030, 7019.40.4060, 7019.40.9030, 7019.40.9060, 7019.51.9010, 7019.51.9090, 7019.52.9010, 7019.52.9021, 7019.52.9096 and 7019.90.1000. HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of this investigation is dispositive.

Appendix II: List of Topics in the Issues and Decision Memorandum

Republic of China: Final Affirmative Determination, and accompanying Issues and Decision Memorandum. The final determination in this companion CVD proceeding is being released concurrently with this final determination.

[14] *Id.*

[15] *Id.*

[16] *See Preliminary Determination,* and accompanying Preliminary Decision Memorandum.

[17] Areal shrinkage is expressed as the following percentage:

((Fired Area, em2—Initial Area, cm2)/Initial Area, cm2) × 100 = Areal Shrinkage, %.

[FR Doc. 2017–01636 Filed 1–24–17; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–818]

Certain Pasta From Italy: Amended Final Results of Antidumping Duty Administrative Review; 2014–2015

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

SUMMARY: The Department of Commerce (the Department) is amending the final results of the antidumping duty administrative review of certain pasta (pasta) from Italy to correct a ministerial error. The period of review (POR) is July 1, 2014, through June 30, 2015.

DATES: Effective January 25, 2017.

FOR FURTHER INFORMATION CONTACT: Joy Zhang, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1168.

SUPPLEMENTARY INFORMATION:

Background

On December 13, 2016, the Department disclosed to interested parties its calculations for the *Final Results*.[1] On December 16, 2016, the Department received a timely filed ministerial error allegation from Liguori Pastificio dal 1820 S.p.A. (Liguori) regarding the Department's final margin calculation.[2] On December 19, 2016, the Department received a timely filed ministerial error allegation from Industria Alimentare Colavita S.p.A. (Indalco) regarding the Department's final margin calculation.[3]

Period of Review

The POR covered by this review is July 1, 2014, through June 30, 2015.

Scope of the Order

Imports covered by the order are shipments of certain non-egg dry pasta. The merchandise subject to review is currently classifiable under items 1901.90.90.95 and 1902.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.[4]

Ministerial Errors

Section 751(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.224(f) define a ministerial error as an error ''in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which {the Department} considers ministerial.'' We analyzed the ministerial error comments submitted by Indalco and Liguori and determined, in accordance with section 751(h) of the Act and 19 CFR 351.224(e), that there is a ministerial error in our margin calculations for Liguori for the *Final Results.* For a complete discussion of the alleged errors, *see* the Department's Ministerial Error Memorandum.[5]

In accordance with section 751(h) of the Act and 19 CFR 351.224(e), we are amending the *Final Results.* Specifically, we are amending the weighted-average dumping margin for Liguori, as well as for the companies that were not selected for individual examination, which were assigned the rate based on the weighted-average dumping margins for Indalco and Liguori.[6] The revised weighted-average dumping margins for the affected companies are detailed below.

Amended Final Results

As a result of correcting for the ministerial error, we determined the following amended weighted-average dumping margins exist for the period July 1, 2014, through June 30, 2015:

Producer and/or exporter	Weighted-average dumping margin (percent)
Industria Alimentare Colavita S.p.A. (Indalco)	1.20
Liguori Pastificio Dal 1820 (Liguori)	5.55
Agritalia S.r.L. (Agritalia)	2.47
Atar S.r.L. (Atar)	2.47
Corticella Molini e Pastifici S.p.A. (Corticella)	2.47
Delverde Industrie Alimentari S.p.A. (Delverde)	2.47
Domenico Paone fu Erasmo S.p.A. (Domenico)	2.47
F. Divella S.p. A. (F. Divella)	2.47
La Fabbrica della Pasta di Gragnano S.a.s. di Antonio Moccia (La Fabbrica)	2.47
Molino e Pastificio Tomasello S.r.L. (Tomasello)	2.47
P.A.P SNC DI Pazienza G.B. & C.[7]	2.47
Pasta Zara S.p.A. (Pasta Zara)	2.47

[1] *See Certain Pasta from Italy: Final Results of Antidumping Duty Administrative Review; 2014–2015,* 81 FR 91120 (December 16, 2016) (*Final Results*). *See also* Memorandum to the File, Through Eric B. Greynolds, Program Manager, Office III, from George McMahon, Case Analyst, Office III, titled ''Certain Pasta from Italy: Calculation Memorandum—Indalco,'' (Final Results—Indalco Calculations); *see also* Memorandum to Eric Greynolds, Program Manager, AD/CVD Operations, Office III from Joy Zhang, Case Analyst, ''2014–2015 Antidumping Duty Administrative Review of Certain Pasta from Italy—Final Results, Sales Analysis Memorandum for Liguori,'' dated December 12, 2016 (Final Results—Liguori Calculations).

[2] *See* Letter from Liguori, ''Antidumping Duty Administrative Review of Certain Pasta from Italy: Ministerial Error Allegation Regarding Liguori Pastificio dal 1820 S.p.A,'' dated December 16, 2016.

[3] *See* Letter from Indalco, ''Certain Pasta from Italy: 19th POR: Request for Correction of Clerical Error,'' dated December 19, 2016.

[4] For a full description of the scope of the order, *see* the ''Issues and Decision Memorandum for the Final Results of Antidumping Duty Administrative Review and Partial Rescission: Certain Pasta from Italy; 2014–2015'' from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, dated December 12, 2016 (Issues and Decision Memorandum).

[5] *See* ''Amended Final Results of the 2014–2015 Administrative Review of the Antidumping Duty Order on Certain Pasta from Italy: Allegation of Ministerial Error,'' dated concurrently with this notice (''Ministerial Error Memorandum'').

[6] *See Final Results,* 81 FR at 91120.

Producer and/or exporter	Weighted-average dumping margin (percent)
Pastificio Carmine Russo S.p.A. (Carmine)	2.47
Pastificio DiMartino Gaetano & F. Ili S.r.L. (DiMartino)	2.47
Pastificio Fabianelli S.p.A. (Fabianelli)	2.47
Pastificio Felicetti S.r. L. (Felicetti)	2.47
Pastificio Labor S.r.L. (Labor)	2.47
Pastificio Riscossa F. Ili Mastromauro S.p.A. (AKA Pastificio Riscossa F. Ili. Mastromauro S.r.L.) (Riscossa)	2.47
Poiatti S.p.A. (Poiatti)	2.47
Premiato Pastificio Afeltra S.r. L. (Premiato) [8]	2.47
Rustichella d'Abruzzo S.p.A. (Rustichella)	2.47

Duty Assessment/Cash Deposits

The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these amended final results to liquidate shipments of subject merchandise produced and/or exported by respondents listed above entered, or withdrawn form warehouse, for consumption on or after July 1, 2014, through June 30, 2015.

Pursuant to section 751(a)(2)(C) of the Act, the Department also intends to instruct CBP to collect cash deposits of estimated dumping duties, in the amounts shown above for each of the respective companies shown above, on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after December 16, 2016, the date of publication of the *Final Results.* For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits at the most-recent company-specific or all-others rate applicable to the company, as appropriate. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Disclosure

We will disclose the calculations performed for these amended final results to interested parties within five business days of the date of the publication of this notice in accordance with 19 CFR 351.224(b)

We are issuing and publishing this notice in accordance with sections 751(h) and 777(i)(1) of the Act and 19 CFR 351.224(e).

Dated: January 17, 2017.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017–01597 Filed 1–24–17; 8:45 am]

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[7] In the *Initiation Notice,* the Department initiated an administrative review of ''P.A.P SNC DI Pazienza G.B. & C.'' *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 80 FR 53106 (September 2, 2015) (*Initiation Notice*). In the recently completed changed circumstances review of this company the Department determined that P.A.P. S.R.L. is the successor-in-interest to P.A.P SNC DI Pazienza G.B. & C. *See Certain Pasta from Italy: Final Results of Changed Circumstances Review,* 80 FR 48807 (August 14, 2015) (*P.A.P. S.R.L. CCR*).

The rate of 2.47 percent, as listed in the rate chart above, will apply to P.A.P SNC DI Pazienza G.B. & C. for assessment purposes. Effective December 16, 2016, the rate of 2.47 percent, as listed in the rate chart above for P.A.P SNC DI Pazienza G.B. & C., will apply to P.A.P. S.R.L. for cash deposit purposes.

[8] In the *Initiation Notice,* the Department inadvertently misspelled the name of Premiato as ''Premiato Pastificio Afreltra S.r.L.''

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–049]

Ammonium Sulfate From the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value

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

SUMMARY: The U.S. Department of Commerce (''the Department'') determines that ammonium sulfate from the People's Republic of China (''PRC'') is being, or is likely to be, sold in the United States at less than fair value (''LTFV''). The period of investigation is October 1, 2015, through March 31, 2016. The final dumping margin of sales at LTFV is listed below in the ''Final Determination'' section of this notice.

DATES: Effective January 25, 2017.

FOR FURTHER INFORMATION CONTACT: Maliha Khan, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0895.

SUPPLEMENTARY INFORMATION:

Background

On November 9, 2016, the Department published the *Preliminary Determination.*[1] Interested parties were invited to submit comments on the *Preliminary Determination,*[2] but no comments were received. Additionally, no party requested a hearing.

Scope of the Investigation

The scope of the investigation covers ammonium sulfate from the PRC. For a complete description of the scope of this investigation, *see* Appendix I.

Analysis of Comments Received

As noted above, we received no comments in response to the *Preliminary Determination.*

Use of Adverse Facts Available

As stated in the *Preliminary Determination,* we found that the PRC-wide entity was unresponsive to the Department's requests for information. Specifically, as discussed in the Preliminary Decision Memorandum, of the 95 companies identified in the petition, only five submitted quantity and value (''Q&V'') information. However, none of the Q&V responses were useable for respondent selection

[1] *See Ammonium Sulfate from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value,* 81 FR 78776 (November 9, 2016) (''*Preliminary Determination*''), and accompanying Preliminary Issues and Decision Memorandum (''PDM'').

[2] *See Preliminary Determination,* 81 FR 78776–78777; *see* also *Ammonium Sulfate from the People's Republic of China: Correction to the Preliminary Determination of Sales at Less Than Fair Value,* 81 FR 84554 (November 23, 2016).

because three of the five responses submitted no shipment notifications and the remaining two included Q&V data showing that the companies did not ship to the United States the subject merchandise during the period of investigation.[3] Without a useable Q&V response from a potential respondent, we were unable to select a mandatory respondent for individual examination in accordance with our normal methodology and calculate a rate. Therefore, the Department found that the PRC-wide entity failed to provide necessary information, withheld information requested by the Department, failed to provide information in a timely manner, and significantly impeded this proceeding by not submitting the requested information. Furthermore, because the PRC-wide entity failed to provide any information, for this final determination, the Department continues to find that use of facts available is warranted in determining the rate of the PRC-wide entity, pursuant to sections 776(a)(1) and (a)(2)(A)-(C) of the Tariff Act of 1930, as amended (''the Act).[4]

Final Determination

The final weighted-average dumping margin is as follows:

Exporter/producer	Weighted-average margin (percent)
PRC-Wide Entity	493.46

Disclosure

The weighted-average dumping margin assigned to the PRC-wide entity in the *Preliminary Determination* was based on adverse facts available. As we have made no changes to the margin since the *Preliminary Determination,* no disclosure of calculations is necessary for this final determination.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (''CBP'') to continue to suspend liquidation of all appropriate entries of ammonium sulfate from the PRC, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after November 9, 2016, the date of publication in the **Federal Register** of the affirmative *Preliminary Determination.*

Further, pursuant to section 735(c)(1)(B)(ii) of the Act, the Department will also instruct CBP to require for all PRC exporters/producers of merchandise under consideration, and all non-PRC exporters of merchandise under consideration, the cash deposit rate applicable for the PRC-wide entity, 493.46 percent.[5]

The Department is making no adjustments to the antidumping cash deposit rate in the instant investigation because the Department has made no findings in the companion countervailing duty investigation that any of the programs are export subsidies.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the U.S. International Trade Commission (''ITC'') of the final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury by reason of imports of ammonium sulfate from the PRC no later than 45 days after this final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Orders

This notice serves as a reminder to parties subject to an 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 notification of the return of 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 determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: January 17, 2017.

Paul Piquado,

Assistant Secretary, for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is ammonium sulfate in all physical forms, with or without additives such as anti-caking agents. Ammonium sulfate, which may also be spelled as ammonium sulphate, has the chemical formula $(NH_4)_2SO_4$.

The scope includes ammonium sulfate that is combined with other products, including by, for example, blending (*i.e.,* mixing granules of ammonium sulfate with granules of one or more other products), compounding (*i.e.,* when ammonium sulfate is compacted with one or more other products under high pressure), or granulating (incorporating multiple products into granules through, *e.g.,* a slurry process). For such combined products, only the ammonium sulfate component is covered by the scope of this investigation.

Ammonium sulfate that has been combined with other products is included within the scope regardless of whether the combining occurs in countries other than China.

Ammonium sulfate that is otherwise subject to this investigation is not excluded when commingled (*i.e.,* mixed or combined) with ammonium sulfate from sources not subject to this investigation. Only the subject component of such commingled products is covered by the scope of this investigation.

The Chemical Abstracts Service (CAS) registry number for ammonium sulfate is 7783–20–2.

The merchandise covered by this investigation is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 3102.21.0000. Although this HTSUS subheading and CAS registry number are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

[FR Doc. 2017–01653 Filed 1–24–17; 8:45 am]

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[3] *See Preliminary Determination,* and PDM at 4.

[4] *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen Fish Fillets From the Socialist Republic of Vietnam,* 68 FR 4986, 4991 (January 31, 2003), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam,* 68 FR 37116 (June 23, 2003).

[5] *See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations,* 76 FR 61042, 64137 (October 3, 2011).

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

[C–570–039]

Countervailing Duty Investigation of Certain Amorphous Silica Fabric From the People's Republic of China: Final Affirmative Determination

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

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers and exporters of certain amorphous silica fabric (silica fabric) from the People's Republic of China (the PRC). For information on the estimated subsidy rates, *see* the ''*Final Determination and Suspension of Liquidation*'' section of this notice.

DATES: Effective January 25, 2017.

FOR FURTHER INFORMATION CONTACT: Emily Maloof or John Corrigan, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–5649 or (202) 482–7438, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the *Preliminary Determination* on July 5, 2016.[1] A summary of the events that occurred since the Department published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum [2] issued concurrently with this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed Issues and Decision Memorandum and the electronic version are identical in content.

Period of Investigation

The period of investigation for which we are measuring subsidies is January 1, 2015, through December 31, 2015.

Scope Comments

The Department set aside a period of time for parties to address scope issues.[3] We received no scope comments.[4] In the *Preliminary Determination,* we did not modify the scope language from what appeared in the *Initiation Notice.*[5] No interested party submitted scope comments in case or rebuttal briefs. Therefore, the scope of this investigation remains unchanged for this final determination.

Scope of the Investigation

The merchandise covered by this investigation is silica fabric from the PRC. For a complete description of the scope of this investigation, *see* Appendix II.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation, and the issues raised in the case and rebuttal briefs submitted by the parties, are discussed in the Issues and Decision Memorandum. A list of the issues that parties raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice at Appendix I.

Use of Adverse Facts Available (AFA)

In making its findings, the Department relied, in part, on facts available. For mandatory respondent Nanjing Tianyuan Fiberglass Material Co., Ltd. (Nanjing Tianyuan), we are basing certain countervailing duty (CVD) rates on facts otherwise available, pursuant to sections 776(a)(2)(C) and (D) of the Tariff Act of 1930, as amended (the Act). Further, because Nanjing Tianyuan did not cooperate to the best of its ability in this investigation by not providing necessary information requested by the Department, we determine that an adverse inference in selecting from the facts available is warranted with respect to certain countervailable subsidy programs, pursuant to section 776(b) of the Act. The Department has, therefore, relied, in part, on AFA in calculating Nanjing Tianyuan's subsidy rates.

Regarding ACIT (Pinghu) Inc. and ACIT (Shanghai) Inc. (collectively, ACIT),[6] we determine that the application of AFA is warranted with regard to the Government of the PRC's (GOC's) provision of Export Buyer's Credits and thus determine, as AFA, that ACIT benefitted from the Export Buyer's Credit program.

In addition, the Department has applied a total AFA rate to the 48 companies that failed to respond to the Department's quantity and value questionnaire.[7]

For further information on the Department's application of adverse facts available, as summarized above, *see* the section titled ''Use of Facts Otherwise Available and Adverse Inferences,'' in the Issues and Decision Memorandum.

Changes Since the Preliminary Determination

Based on our review and analysis of the comments received from parties, and minor corrections presented at verification, we made certain changes to ACIT's and Nanjing Tianyuan's subsidy rate calculations since the *Preliminary Determination.* For a discussion of these changes, *see* the Issues and Decision Memorandum and the Final Calculation Memoranda.[8]

Final Determination and Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated an individual rate for each producer/

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[1] *See Countervailing Duty Investigation of Certain Amorphous Silica Fabric from the People's Republic of China: Preliminary Determination and Alignment of Final Determination with Final Antidumping Duty Determination,* 81 FR 43579 (July 5, 2016) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum (Preliminary Decision Memorandum).

[2] *See* Memorandum to Paul Piquado, from Gary Taverman, ''Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Amorphous Silica Fabric from the People's Republic of China,'' dated concurrently with this determination and hereby adopted by this notice (Issues and Decision Memorandum).

[3] *See Certain Amorphous Silica Fabric from the People's Republic of China: Initiation of Countervailing Duty Investigation,* 81 FR 8909 (February 23, 2016) (*Initiation Notice*).

[4] On March 13, 2016, the Department received a letter dated March 7, 2016, from Lewco Specialty Products, Inc. We rejected this letter as improperly filed and removed it from the record of this proceeding. *See* Memorandum to the File, ''Re: Request to Take Action on Certain Barcodes,'' dated March 18, 2016.

[5] *See Initiation Notice,* 81 FR at 8912–13.

[6] *See Preliminary Determination* and accompanying Preliminary Determination Memorandum at 11 (finding ACIT (Pinghu) Inc. and ACIT (Shanghai) Inc. to be cross-owned).

[7] *See Preliminary Determination* at 81 FR 43579–43582.

[8] *See* Issues and Decision Memorandum; *see also* Memorandum to the File, ''Countervailing Duty Investigation of Certain Amorphous Silica Fabric from the People's Republic of China: ACIT (Pinghu) Inc. and ACIT (Shanghai) Inc. Final Analysis Memorandum,'' dated January 17, 2017 (ACIT's Final Calculation Memorandum); *see also* Memorandum to the File, ''Nanjing Tianyuan Fiberglass Material Co., Ltd. Final Analysis Memorandum,'' dated January 17, 2017 (Nanjing Tianyuan's Final Calculation Memorandum).

exporter of the subject merchandise individually investigated, *i.e.* ACIT and Nanjing Tianyuan. In accordance with section 705(c)(5)(A) of the Act, for companies not individually investigated, we apply an ''all-others'' rate, which is normally calculated by weighting the subsidy rates of the individual companies selected as mandatory respondents by those companies' exports of the subject merchandise to the United States. Under section 705(c)(5)(A)(i) of the Act, the ''all-others'' rate excludes zero and *de minimis* rates calculated for the exporters and producers individually investigated as well as rates based entirely on facts otherwise available. Where the rates for the individually investigated companies are all zero or *de minimis,* or determined entirely using facts otherwise available, section 705(c)(5)(A)(ii) of the Act instructs the Department to establish an ''all-others'' rate using ''any reasonable method.'' Where the countervailable subsidy rates for all of the individually investigated respondents are zero or *de minimis* or are based on total AFA, the Department's practice, pursuant to 705(c)(5)(A)(ii), is to calculate the all others rate based on a simple average of the zero or *de minimis* margins and the margins based on total AFA.

Pursuant to section 705(c)(5)(A)(i) of the Act, we have calculated the ''all-others'' rate using the subsidy rates of the two individually investigated respondents. However, we have not calculated the ''all-others'' rate by weight-averaging the rates because doing so risks disclosure of proprietary information. Therefore, and consistent with the Department's practice, for the ''all-others'' rate, we calculated a simple average of the two mandatory respondents' subsidy rates.[9]

Exporter/producer	Subsidy rate (Percent)
ACIT (Pinghu) Inc. and ACIT (Shanghai) Inc.	48.94
Nanjing Tianyuan Fiberglass Material Co., Ltd.	79.90
Acmetex Co., Ltd.,*	165.39
Beijing Great Pack Materials, Co. Ltd.,*	
Beijing Landingji Engineering Tech Co., Ltd.,*	
Changshu Yaoxing Fiberglass Insulation Products Co., Ltd.,*	
Changzhou Kingze Composite Materials Co., Ltd.,*	
Changzhou Utek Composite Co.,*	
Chengdu Chang Yuan Shun Co., Ltd.,*	
China Beihai Fiberglass Co., Ltd.,*	
China Yangzhou Guo Tai Fiberglass Co., Ltd.,*	
Chongqing Polycomp International Corp.,*	
Chongqing Yangkai Import & Export Trade Co., Ltd.,*	
Cixi Sunrise Sealing Material Co., Ltd.,*	
Fujian Minshan Fire-Fighting Co., Ltd.,*	
Grand Fiberglass Co., Ltd.*	
Haining Jiete Fiberglass Fabric Co., Ltd.,*	
Hebei Yuniu Fiberglass Manufacturing Co., Ltd.,*	
Hebei Yuyin Trade Co., Ltd.,*	
Hengshui Aohong International Trading Co., Ltd.,*	
Hitex Insulation (Ningbo) Co., Ltd.,*	
Mowco Industry Limited,*	
Nanjing Debeili New Materials Co., Ltd.,*	
Ningbo Fitow High Strength Composites Co., Ltd.,*	
Ningbo Universal Star Industry & Trade Limited,*	
Ningguo BST Thermal Protection Products Co., Ltd.,*	
Qingdao Feelongda Industry & Trade Co., Ltd.,*	
Qingdao Shishuo Industry Co., Ltd.,*	
Rugao City Ouhua Composite Material Co., Ltd.,*	
Rugao Nebola Fiberglass Co., Ltd.,*	
Shanghai Bonthe Insulative Material Co., Ltd.,*	
Shanghai Horse Construction Co., Ltd.,*	
Shanghai Liankun Electronics Material Co., Ltd.,*	
Shanghai Suita Environmental Protection Technology Co., Ltd.,*	
Shangqui Huanyu Fiberglass Co., Ltd.,*	
Shengzhou Top-Tech New Material Co., Ltd.,*	
Shenzhen Songxin Silicone Products Co., Ltd.,*	
Taixing Chuanda Plastic Co., Ltd.,*	
Taixing Vichen Composite Material Co., Ltd.,*	
TaiZhou Xinxing Fiberglass Products Co., Ltd.,*	
Tenglong Sealing Products Manufactory Yuyao,*	
Texaspro (China) Company,*	
Wallean Industries Co., Ltd.,*	
Wuxi First Special-Type Fiberglass Co., Ltd.,*	
Wuxi Xingxiao Hi-Tech Material Co., Ltd.,*	
Yuyao Feida Insulation Sealing Factory,*	
Yuyao Tianyi Special Carbon Fiber Co., Ltd.,*	
Zibo Irvine Trading Co., Ltd.,*	
Zibo Yao Xing Fire-Resistant and Heat-Preservation Material Co., Ltd.,*	
Zibo Yuntai Furnace Technology Co., Ltd.*	

[9] *See, e.g., Countervailing Duty Investigation of Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China: Preliminary Determination and Alignment of Final Determination With Final Antidumping Duty Determination,* 80 FR 5089 (January 30, 2015), unchanged in *Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 80 FR 64745 (October 24, 2015).

Exporter/producer	Subsidy rate (Percent)
All-Others	64.42

* Non-cooperative company to which an AFA rate is being applied. *See* Issues and Decision Memorandum and Preliminary Decision Memorandum for additional information.

As a result of our *Preliminary Determination,* and pursuant to sections 703(d)(1)(B) and (2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of merchandise under consideration from the PRC that were entered or withdrawn from warehouse, for consumption, on or after July 5, 2016, the date of publication of the *Preliminary Determination* in the **Federal Register**.

In accordance with section 703(d) of the Act, we later issued instructions to CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered, or withdrawn from warehouse, on or after November 2, 2016, but to continue the suspension of liquidation of all entries between July 5, 2016, and November 1, 2016.

If the U.S. International Trade Commission (the ITC) issues a final affirmative injury determination, we will issue a CVD order, will reinstate the suspension of liquidation under section 706(a) of the Act, and will require a cash deposit of estimated CVDs for such entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Return or Destruction of Proprietary Information

In the event the ITC issues a final negative injury determination, this notice serves as the only reminder to parties subject to an APO of their responsibility concerning the destruction 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 terms of an APO is a violation subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: January 17, 2017.

Paul Piquado,

Assistant Secretary, for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

Appendix II

Scope of the Investigation

The product covered by this investigation is woven (whether from yarns or rovings) industrial grade amorphous silica fabric, which contains a minimum of 90 percent silica (SiO_2) by nominal weight, and a nominal width in excess of 8 inches. The investigation covers industrial grade amorphous silica fabric regardless of other

materials contained in the fabric, regardless of whether in roll form or cut-to-length, regardless of weight, width (except as noted above), or length. The investigation covers industrial grade amorphous silica fabric regardless of whether the product is approved by a standards testing body (such as being Factory Mutual (FM) Approved), or regardless of whether it meets any governmental specification.

Industrial grade amorphous silica fabric may be produced in various colors. The investigation covers industrial grade amorphous silica fabric regardless of whether the fabric is colored. Industrial grade amorphous silica fabric may be coated or treated with materials that include, but are not limited to, oils, vermiculite, acrylic latex compound, silicone, aluminized polyester (Mylar®) film, pressure-sensitive adhesive, or other coatings and treatments. The investigation covers industrial grade amorphous silica fabric regardless of whether the fabric is coated or treated, and regardless of coating or treatment weight as a percentage of total product weight. Industrial grade amorphous silica fabric may be heat-cleaned. The investigation covers industrial grade amorphous silica fabric regardless of whether the fabric is heat-cleaned.

Industrial grade amorphous silica fabric may be imported in rolls or may be cut-to-length and then further fabricated to make welding curtains, welding blankets, welding pads, fire blankets, fire pads, or fire screens. Regardless of the name, all industrial grade amorphous silica fabric that has been further cut-to-length or cut-to-width or further finished by finishing the edges and/or adding grommets, is included within the scope of this investigation.

Subject merchandise also includes (1) any industrial grade amorphous silica fabric that has been converted into industrial grade amorphous silica fabric in China from fiberglass cloth produced in a third country; and (2) any industrial grade amorphous silica fabric that has been further processed in a third country prior to export to the United States, including but not limited to treating, coating, slitting, cutting to length, cutting to width, finishing the edges, adding grommets, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope industrial grade amorphous silica fabric.

Excluded from the scope of the investigation is amorphous silica fabric that is subjected to controlled shrinkage, which is also called ''pre-shrunk'' or ''aerospace grade'' amorphous silica fabric. In order to be excluded as a pre-shrunk or aerospace grade amorphous silica fabric, the amorphous silica fabric must meet the following exclusion criteria: (1) The amorphous silica fabric must contain a minimum of 98 percent silica (SiO_2) by nominal weight; (2) the amorphous silica fabric must have an areal shrinkage of 4 percent or less; (3) the amorphous silica fabric must contain no coatings or treatments; and (4) the amorphous silica fabric must be white in color. For purposes of this scope, ''areal shrinkage'' refers to the extent to which a specimen of amorphous silica fabric shrinks while subjected to heating at 1800 degrees F for 30 minutes.

Areal shrinkage is expressed as the following percentage:

$$\frac{\text{Fired Area, cm}^2 - \text{Initial Area, cm}^2}{\text{Initial Area, cm}^2} \times 100 = \text{Areal Shrinkage, \%}$$

Also excluded from the scope are amorphous silica fabric rope and tubing (or sleeving). Amorphous silica fabric rope is a knitted or braided product made from amorphous silica yarns. Silica tubing (or sleeving) is braided into a hollow sleeve from amorphous silica yarns.

The subject imports are normally classified in subheadings 7019.59.4021, 7019.59.4096, 7019.59.9021, and 7019.59.9096 of the Harmonized Tariff Schedule of the United States (HTSUS), but may also enter under HTSUS subheadings 7019.40.4030, 7019.40.4060, 7019.40.9030, 7019.40.9060, 7019.51.9010, 7019.51.9090, 7019.52.9010, 7019.52.9021, 7019.52.9096 and 7019.90.1000. HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of this investigation is dispositive.

[FR Doc. 2017–01635 Filed 1–24–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Proposed Update to the Framework for Improving Critical Infrastructure Cybersecurity

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice, request for comments.

SUMMARY: The National Institute of Standards and Technology (NIST) requests comments on a proposed update to the Framework for Improving Critical Infrastructure Cybersecurity (the ''Framework''). The voluntary Framework consists of standards, methodologies, procedures, and processes that align policy, business, and technological approaches to address cyber risks. The Framework was published on February 12, 2014, after a year-long, open process involving private and public sector organizations, including extensive input and public comments. It has been used with increasing frequency and in a variety of ways by organizations of all sizes, areas of interest, and based inside and outside the United States.

This Request for Comments (RFC) is meant to facilitate coordination with, ''private sector personnel and entities, critical infrastructure owners and operators, and other relevant industry organizations'' as directed by the Cybersecurity Enhancement Act of 2014.[1] The proposed update to the Framework is available for review at *http://www.nist.gov/cyberframework.* Responses to this RFC will be posted at *http://www.nist.gov/cyberframework* and will inform NIST's planned update to the Framework.

[1] *See* 15 U.S.C. 272(e)(1)(A)(i). The Cybersecurity Enhancement Act of 2014 (S.1353) became public law 113–274 on December 18, 2014 and may be found at: *https://www.congress.gov/bill/113th-congress/senate-bill/1353/text.*

DATES: Comments must be received by 5:00 p.m. Eastern time on April 10, 2017.

ADDRESSES: Written comments may be submitted by mail to Edwin Games, National Institute of Standards and Technology, 100 Bureau Drive, Stop 8930, Gaithersburg, MD 20899. Online submissions in electronic form may be sent to *cyberframework@nist.gov* in any of the following formats: HTML; ASCII; Word; RTF; or PDF. Please submit comments only and include your name, organization's name (if any), and cite ''Comments on Draft Update of the Framework for Improving Critical Infrastructure Cybersecurity'' in all correspondence. Comments containing references, studies, research, and other empirical data that are not widely published should include copies of the referenced materials. The proposed update to the Framework is available for review at *http://www.nist.gov/cyberframework.*

All comments received in response to this RFC will be posted at *http://www.nist.gov/cyberframework* without change or redaction, so commenters should not include information they do not wish to be posted (*e.g.,* personal or confidential business information). Comments that contain profanity, vulgarity, threats, or other inappropriate language will not be posted or considered.

FOR FURTHER INFORMATION CONTACT: For questions about this RFC contact: Adam Sedgewick, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, telephone (202) 482–0788, email *Adam.Sedgewick@nist.gov.* Please direct media inquiries to NIST's Office of Public Affairs at (301) 975–2762.

SUPPLEMENTARY INFORMATION: The national and economic security of the United States depends on the reliable functioning of critical infrastructure,[2] which has become increasingly dependent on information technology. Cyber attacks and publicized weaknesses reinforce the need for improved capabilities for defending against malicious cyber activity. This is a long-term challenge.

The Secretary of Commerce was tasked to direct the Director of NIST to lead the development of a voluntary framework to reduce cyber risks to critical infrastructure (the ''Framework'').[3] The Framework consists of standards, methodologies, procedures and processes that align policy, business, and technological approaches to address cyber risks. The Framework was developed by NIST using information collected through the Request for Information (RFI) that was published in the **Federal Register** on February 25, 2013 (78 FR 13024), a series of open public workshops, and a 45-day public comment period announced in the **Federal Register** on October 29, 2013 (78 FR 64478). It was published on February 12, 2014, after a year-long, open process involving private and public sector organizations, including extensive input and public comments, and announced in the **Federal Register** on February 18, 2014 (79 FR 9167). Responses to subsequent RFIs, as announced through the **Federal Register** (79 FR 50891 and 80 FR 76934), and workshops encouraged NIST to update the Framework.

The Cybersecurity Framework incorporates voluntary consensus standards and industry best practices to the fullest extent possible and is consistent with voluntary international consensus-based standards when such international standards advance the objectives of the Cybersecurity Enhancement Act of 2014. The Framework is designed for compatibility with existing regulatory authorities and regulations, although it is intended for voluntary adoption.

Given the diversity of sectors in the Nation's critical infrastructure, the Framework development process was designed to build on cross-sector security standards and guidelines that are immediately applicable or likely to be applicable to critical infrastructure. The process also was intended to increase visibility and use of those standards and guidelines, and to find potential areas for improvement (*e.g.,* where standards/guidelines are nonexistent) that need to be addressed through future collaboration with industry and industry-led standards bodies.

While the focus of the Framework is on the Nation's critical infrastructure, it was developed in a manner to promote wide adoption of practices to increase risk management-based cybersecurity across all industry sectors and by all types of organizations.

NIST has worked closely with industry groups, associations, non-profits, government agencies, and international standards bodies to increase awareness of the Framework. NIST has promoted the use of the Framework as a basic, flexible, and adaptable tool for managing and reducing cybersecurity risks. The Framework was designed as a communication tool. It is applicable for leaders at all levels of an organization. For these reasons, NIST has engaged a wide diversity of stakeholders in Framework education. NIST has also issued several RFIs, held workshops, and encouraged direct communication with potential and current users of the Framework.

Based on the information received from the public via these channels and the work that it has carried out on cybersecurity—including its collaborative efforts with the private sector—NIST has developed a draft update of the Framework (termed ''Version 1.1'' or ''V1.1''), available at *http://www.nist.gov/cyberframework.* This draft update seeks to clarify, refine, and enhance the Framework, and make it easier to use, while retaining its flexible, voluntary, and cost-effective nature. The update also will be fully compatible with the February 2014 version of the Framework in that either version may be used by organizations without degrading communication or functionality.

Request for Comments

NIST is soliciting public comments on this proposed update. Specifically, NIST is interested in comments that address updated features of the Framework. These features seek to:

- Clarify Implementation Tier use and relationship to Profiles,
- Enhance guidance for applying the Framework for supply chain risk management,
- Provide guidance on metrics and measurements using the Framework,
- Update the FAQs to support understanding and use of Framework, and
- Update the Informative References.

NIST also will consider comments on other aspects of the Framework update. All comments will be made available to the public. These comments will be analyzed and will be one focus of a public workshop to be held in May 2017. Details about that workshop, which also will feature user experiences with the Framework, will be announced on the NIST Cybersecurity Framework Web site at: *https://www.nist.gov/cyberframework.* To receive notice about the workshop, please contact: *cyberframework@nist.gov.*

After the May 2017 workshop and considering the comments received on this draft update, NIST intends to issue a final version of Framework V1.1 along with an updated Roadmap [4] document that describes recommended activities in work areas that are related and complimentary to the Framework.

Kevin Kimball,

NIST Chief of Staff.

[FR Doc. 2017–01599 Filed 1–24–17; 8:45 am]

BILLING CODE 3510–13–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2010–0055]

Agency Information Collection Activities; Proposed Collection; Comment Request; Standard for the Flammability of Mattresses and Mattress Pads and Standard for the Flammability (Open Flame) of Mattress Sets

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995, the Consumer Product Safety Commission (CPSC, or

[2] For the purposes of this RFC the term ''critical infrastructure'' has the meaning given the term in 42 U.S.C. 5195c(e): ''systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters.''

[3] *See* Executive Order 13636, *Improving Critical Infrastructure Cybersecurity* (Feb. 12, 2013), *https://www.gpo.gov/fdsys/pkg/FR-2013-02-19/pdf/2013-03915.pdf.* The Cybersecurity Framework may be found at: *https://www.nist.gov/sites/default/files/documents/cyberframework/cybersecurity-framework-021214.pdf.*

[4] The Cybersecurity Framework Roadmap may be found at: *https://www.nist.gov/sites/default/files/documents/cyberframework/roadmap-021214.pdf.*

Commission) requests comments on a proposed extension of approval of a collection of information from manufacturers and importers of mattresses and mattress pads. The collection of information is set forth in the Standard for the Flammability of Mattresses and Mattress Pads, 16 CFR part 1632 and the Standard for the Flammability (Open Flame) of Mattress Sets, 16 CFR part 1633. These regulations establish testing and recordkeeping requirements for manufacturers and importers subject to the standards. The Commission will consider all comments received in response to this notice, before requesting an extension of approval of this collection of information from the Office of Management and Budget (OMB).

DATES: The Office of the Secretary must receive comments not later than March 27, 2017.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2010–0055, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *http://www.regulations.gov.* Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (email), except through *www.regulations.gov.* The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions: Submit written submissions in the following way: Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions), preferably in five copies, to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: *http://www.regulations.gov.* Do not submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If furnished at all, such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to: *http://www.regulations.gov,* and insert the docket number, CPSC–2010–0055, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: For further information contact: Robert H. Squibb, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; (301) 504–7815, or by email to: *rsquibb@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

Approximately 358 firms produce mattresses.[1] The Standard for the Flammability of Mattresses and Mattress Pads, 16 CFR part 1632 (part 1632 standard), was promulgated under section 4 of the Flammable Fabrics Act (FFA), 15 U.S.C. 1193, to reduce unreasonable risks of burn injuries and deaths from fires associated with mattresses and mattress pads. The part 1632 standard prescribes requirements to test whether a mattress or mattress pad will resist ignition from a smoldering cigarette. The part 1632 standard also requires manufacturers to perform prototype tests of each combination of materials and construction methods used to produce mattresses or mattress pads and to obtain acceptable results from such testing. Manufacturers and importers must maintain the records and test results specified under the standard.

The Commission also promulgated the Standard for the Flammability (Open Flame) of Mattress Sets, 16 CFR part 1633 (part 1633 standard), under section 4 of the FFA to reduce deaths and injuries related to mattress fires, particularly those ignited by open-flame sources, such as lighters, candles, and matches. The part 1633 standard requires manufacturers to maintain certain records to document compliance with the standard, including maintaining records concerning prototype testing, pooling, and confirmation testing, and quality assurance procedures and any associated testing. The required records must be maintained for as long as mattress sets based on the prototype are in production and must be retained for 3 years thereafter. Although some larger manufacturers may produce mattresses based on more than 100 prototypes, most mattress manufacturers base their complying production on 15 to 20 prototypes. OMB previously approved the collection of information for 16 CFR parts 1632 and 1633, under control number 3041–0014, with an expiration date of April 30, 2017. The information collection requirements under the part 1632 standard do not duplicate the testing and recordkeeping requirements under the part 1633 standard.

[1] In the previous information collection, CPSC used the census data for the North American Industry Classification System (NAICS) code to count the number of establishments that produce mattresses. However, firms may have multiple establishments associated with them. Accordingly, CPSC uses the number of firms rather than the number of establishments.

B. Burden Hours

16 CFR 1632: Staff estimates that there are 358 respondents. It is estimated that each respondent will spend 26 hours for testing and record keeping annually for a total of 9,308 hours (358 firms × 26 hours = 9,308). The hourly compensation for the time required for record keeping is $66.19 (U.S. Bureau of Labor Statistics, ''Employer Costs for Employee Compensation,'' June 2016, Table 9, total compensation of all management, professional, and related occupations in goods-producing industries: *http://www.bls.gov/ncs*). The annualized cost to respondents would be approximately $616,097 (9,308 hours × $66.19).

16 CFR 1633: The standard requires detailed documentation of prototype identification and testing records, model and prototype specifications, inputs used, name and location of suppliers, and confirmation of test records, if establishments choose to pool a prototype. This documentation is in addition to documentation already conducted by mattress manufacturers in their efforts to meet 16 CFR part 1632. Staff estimates that there are 358 respondents. Based on staff estimates, the recordkeeping requirements are expected to require about 4 hours and 44 minutes per establishment, per qualified prototype. Although some larger manufacturers reportedly are producing mattresses based on more than 100 prototypes, most mattress manufacturers probably base their complying production on 15 to 20 prototypes, according to an industry representative contacted by staff. Assuming that establishments qualify their production with an average of 20 different qualified prototypes, recordkeeping time is about 94.6 hours (4.73 hours × 20 prototypes) per establishment, per year. (Note that pooling among establishments or using a prototype qualification for longer than 1 year will reduce this estimate). This translates to an annual recordkeeping time cost to all mattress producers of 33,867 hours (94.6 hours × 358 firms). The hourly compensation for the time required for record keeping is $66.19 (U.S. Bureau of Labor Statistics, ''Employer Costs for Employee Compensation,'' June 2016, Table 9, total compensation of all management, professional, and related occupations in

goods-producing industries: *http://www.bls.gov/ncs*). The annual total estimated costs for recordkeeping are approximately $2,241,657 (33,867 hours × $66.19).

The total estimated cost to the 358 firms for the burden hours associated with both 16 CFR part 1632 and 16 CFR part 1633 is approximately $2.86 million annually.

C. Request for Comments

The Commission solicits written comments from all interested persons about the proposed collection of information. The Commission specifically solicits information relevant to the following topics:

- Whether the collection of information described above is necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;
- Whether the estimated burden of the proposed collection of information is accurate;
- Whether the quality, utility, and clarity of the information to be collected could be enhanced; and
- Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other forms of information technology.

Dated: January 18, 2017.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2017–01643 Filed 1–24–17; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2009–0092]

Proposed Extension of Approval of Information Collection; Comment Request—Clothing Textiles, Vinyl Plastic Film

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995, the Consumer Product Safety Commission (CPSC or Commission) requests comments on a proposed request for extension of approval of a collection of information from manufacturers and importers of clothing, textiles and related materials intended for use in clothing under the Standard for the Flammability of Clothing Textiles (16 CFR part 1610) and the Standard for the Flammability of Vinyl Plastic Film (16 CFR part 1611). These regulations establish requirements for testing and recordkeeping for manufacturers and importers who furnish guaranties for products subject to these standards. The Office of Management and Budget (OMB) previously approved the collection of information under control number 3041–0024. OMB's most recent extension of approval will expire on April 30, 2017. The Commission will consider all comments received in response to this notice before requesting an extension of approval of this collection of information from OMB.

DATES: The Office of the Secretary must receive comments not later than March 27, 2017.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2009–0092, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *http://www.regulations.gov.* Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (email), except through *www.regulations.gov.* The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions: Submit written submissions by mail/hand delivery/courier to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: *http://www.regulations.gov.* Do not submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If furnished at all, such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to: *http://www.regulations.gov,* and insert the docket number CPSC–2009–0092, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: For further information contact: Robert H. Squibb, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504–7815, or by email to: *rsquibb@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

The Commission has promulgated several standards under section 4 of the Flammable Fabrics Act (FFA), 15 U.S.C. 1193, to prohibit the use of dangerously flammable textiles and related materials in wearing apparel. Clothing and fabrics intended for use in clothing (except children's sleepwear in sizes 0 through 14) are subject to the Standard for the Flammability of Clothing Textiles (16 CFR part 1610). Clothing made from vinyl plastic film and vinyl plastic film intended for use in clothing (except children's sleepwear in sizes 0 through 14) are subject to the Standard for the Flammability of Vinyl Plastic Film (16 CFR part 1611). These standards prescribe a test to ensure that articles of wearing apparel, and fabrics and film intended for use in wearing apparel, are not dangerously flammable because of rapid and intense burning. (Children's sleepwear and fabrics and related materials intended for use in children's sleepwear in sizes 0 through 14 are subject to other, more stringent flammability standards codified at 16 CFR parts 1615 and 1616).

Section 8 of the FFA (15 U.S.C. 1197) provides that a person who receives a guaranty in good faith that a product complies with an applicable flammability standard is not subject to criminal prosecution for a violation of the FFA resulting from the sale of any product covered by the guaranty. The Commission uses the information compiled and maintained by firms that issue these guaranties to help protect the public from risks of injury or death associated with flammable clothing and fabrics and vinyl film intended for use in clothing. In addition, the information helps the Commission arrange corrective actions if any products covered by a guaranty fail to comply with the applicable standard in a manner that creates a substantial risk of injury or death to the public. Section 8 of the FFA requires that a guaranty must be based on ''reasonable and representative tests.'' The testing and recordkeeping requirements by firms that issue guaranties are set forth under 16 CFR part 1610, subpart B, and 16 CFR part 1611, subpart B.

B. Burden

The Commission estimates that approximately 1,000 firms issue guaranties. Although the Commission's records indicate that approximately 675 firms have filed continuing guaranties at the CPSC, staff believes additional

guarantees may be issued that are not filed with the Commission. Accordingly, staff has estimated the number of firms upwards to account for those guaranties. Staff estimated the burden hours based on an estimate of the time for each firm to conduct testing, issue guaranties, and to establish and maintain associated records.

• Burden Hours per Firm—An estimated 5 hours for testing per firm, using either the test and conditioning procedures in the regulations or alternate methods. Although many firms are exempt from testing to support guaranties under 16 CFR 1610.1(d), CPSC staff does not know the proportion of those firms that are testing vs. those that are exempt. Thus, staff has included testing for all firms in the burden estimates.

• Guaranties Issued per Firm—On average, 20 new guaranties are issued per firm per year for new fabrics or garments.

• Estimated Annual Testing Time per Firm—100 hours per firm (5 hours for testing × 20 guaranties issued = 100 hours per firm).

• Estimated Annual Recordkeeping per Firm—1 hour to create, record, and enter test data into a computerized dataset; 20 minutes (= 0.3 hours) for annual review/removal of records; 20 minutes (= 0.3 hours) to respond to one CPSC records request per year; for a total of 1.6 recordkeeping hours per firm (1 hour + .3 hours + .3 hours = 1.6 hours per firm).

• Total Estimated Annual Burden Hours per Firm—100 hours estimated annual testing time per firm + 1.6 estimated annual recordkeeping hours per firm = 101.6 hours per firm.

• Total Estimated Annual Industry Burden Hours—101.6 hours per firm × 1,000 firms issuing guaranties = 101,600 industry burden hours. The total annual industry burden imposed by the flammability standards for clothing textiles and vinyl plastic film and enforcement regulations on manufacturers and importers of garments, fabrics, and related materials is estimated to be about 101,600 hours (101.6 hours per firm × 1,000 firms).

• Total Annual Industry Cost—The hourly wage for the testing and recordkeeping required by the standards is approximately $66.19 (for management, professional, and related occupations in goods-producing industries, Bureau of Labor Statistics, June 2016), for an estimated annual cost to the industry of approximately $6.7 million (101,600 × $66.19 = $6,724,904).

C. Request for Comments

The Commission solicits written comments from all interested persons about the proposed collection of information. The Commission specifically solicits information relevant to the following topics:

—Whether the collection of information described above is necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;

—Whether the estimated burden of the proposed collection of information is accurate;

—Whether the quality, utility, and clarity of the information to be collected could be enhanced; and

—Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other forms of information technology.

Dated: January 18, 2017.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2017–01644 Filed 1–24–17; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF EDUCATION

Application for New Awards; Expanding Opportunity Through Quality Charter Schools Program (CSP)—Grants to Charter Management Organizations for the Replication and Expansion of High-Quality Charter Schools

Correction

In notice document 2017–00748, appearing on pages 4322 through 4332 in the issue of Friday, January 13, 2017, make the following corrections:

1. On page 4326, in the second column, in the seventh paragraph, beginning on the second line, ''[INSERT DATE OF PUBLICATION IN THE **Federal Register**]'' should read, ''January 13, 2017.''

2. On the same page, in the third column, in the sixth paragraph, beginning on the second line, ''[INSERT DATE 105 DAYS AFTER DATE OF PUBLICATION IN THE **Federal Register**]'' should read, ''April 28, 2017.''

[FR Doc. C1–2017–00748 Filed 1–24–17; 8:45 am]

BILLING CODE 1301–00–D

DEPARTMENT OF ENERGY

Notice of Request for Information (RFI) on Fostering Energy Innovation Ecosystems

AGENCY: Office of the Under Secretary for Science and Energy, Department of Energy (DOE).

ACTION: Request for Information (RFI).

SUMMARY: The U.S. Department of Energy (DOE) invites public comment on this Request for Information (RFI) regarding regional innovation ecosystems and regional cooperation. The purpose of this RFI is to support a public discussion about how to create and foster regional and local ''innovation ecosystems,'' specifically for energy technologies and energy use. DOE is establishing through this RFI a temporary public ''ideation'' tool to serve as a resource of ideas for individuals and organizations interested in promoting regional innovation ecosystems.

DATES: Written comments and information are requested on or before February 28, 2017.

ADDRESSES: Interested parties should submit their comments using the IdeaBuzz.com platform at: *https://ideabuzz.com/a/buzz/challenge/19113/ideas/top.* Rules and guidelines for the Web-based tool can be found there, along with background information, the suggested topics included in this RFI, and opportunities to post ideas and to review, comment on, and ''vote for'' ideas submitted by other people.

The public can view the submitted ideas and comments without creating a user-name on the IdeaBuzz platform, but IdeaBuzz does require users to register a user-name in order to participate (submit ideas, comment, and ''vote''). DOE employees may not submit comments via this platform. DOE will not respond to individual submissions and may or may not publish a compendium of responses.

FOR FURTHER INFORMATION CONTACT: Randy Steer, U.S. Department of Energy, Office of the Under Secretary for Science and Energy (S4–1), 1000 Independence Avenue SW., Washington, DC 20585. Telephone: 202–586–2600, email: *energy-innovation-ideation@ee.doe.gov*

SUPPLEMENTARY INFORMATION:

I. Background

DOE is interested in understanding and fostering self-sustaining local and

regional energy ''innovation ecosystems'' [1] that bring together all the factors needed to translate research and ideas into successful new products and services, whether through start-up companies or new products and business lines in existing companies.

The value of a regional focus to promote innovation, economic development, and job-creation is widely recognized. For example, a decade ago, the Council on Competitiveness reported that ''although national and state policies create a platform for innovation, the locus of innovative activities is at the regional level, where workers, companies, universities, research institutions and government interface most directly . . . Regions are the building blocks of national innovation capacity because they offer proximity and can provide specialized assets that foster firm-level differentiation.'' [2] A 2011 report from Jobs for the Future identified a need for ''structures at the regional level to bring together key leaders from across public, private, and nonprofit sectors to formulate growth strategies that make the best use of regions' competitive assets.'' [3] And in 2012, the National Research Council's Committee on Comparative National Innovation Policies made several observations [4] that speak directly to the value of regional innovation ecosystems and regional partnerships:

• Historically, federally funded R&D has not been connected to state and regional industrial development; bridging that gap can create the local talent and technology base needed to convert these U.S. investments into domestic companies, industries, and jobs.

• Private businesses and local education institutions and economic development agencies are in the best position to identify opportunities, gauge competitive strengths, and mobilize wide community support for regional cluster initiatives.

• Regional innovation cluster initiatives should be built upon existing knowledge clusters and comparative strengths of each geographic region.

Also, recent reviews of the capabilities of DOE's National Laboratories have strongly encouraged the laboratories to broaden their participation in regional innovation ecosystems.[5] [6] This was supported by what DOE officials heard about varying regional energy concerns and capabilities—and interest in national laboratory capabilities—as they participated in a series of university-hosted events during the spring and summer of 2016.[7]

II. Purpose

Based on the background above and on the broad range of ideas heard from university, State, and industry participants at the recent university-hosted events, DOE believes that there is much more yet to be said by the broader public, which could benefit all interested parties, including State and local governments, universities, policy groups, companies, and national organizations.

As a result, DOE is making this temporary ideation and knowledge-sharing tool available as a national ''town hall'' to support a public dialogue on regional energy innovation and innovation ecosystems. The ideation tool suggests a number of potentially fruitful topic areas for suggestions and ideas, although any ideas relating to innovation ecosystems and to local and regional collaboration to support innovation are welcome.

III. Request for Information Suggested Topics

This RFI and its associated web-based ideation tool does not require responses to all of the suggested topics, and would encourage all interested entities/individuals to offer ideas and comments in any of the topic areas, or in new topic areas where relevant. In general, the web-based ideation will work best when ideas regarding different topics are submitted individually, rather than bundling multiple ideas into a single submission.

Suggested Topics

The following topics and questions may guide—but should not restrict—ideas, suggestions, and comments submitted using the IdeaBuzz ideation Web site:

1. Key Elements of an Innovation Ecosystem: What are the essential ''puzzle pieces'' or ''moving parts'' that make up a successful, self-sustaining innovation ecosystem or technology ''cluster''? They include businesses, educational institutions, research centers, people, policies, and financial resources—but are there specific *sub-types* of those categories that are especially important or frequently overlooked? Are there other categories of regional assets that are important as well?

2. Ecosystem Sustainability: Which of those key elements are most important for supporting the start-up of new businesses? Which are most important to make sure that the innovation ecosystem itself is self-sustaining and enduring? Are there supply-chain considerations that are often overlooked?

3. Economic Benefits: Which of those key elements are most important for supporting workforce development as part of the ecosystem? Which are crucial to accelerating the innovation cycle?

4. Performance Metrics: What identifiable metrics would provide useful measures of the economic or innovation impact of efforts to promote a regional energy innovation ecosystem?

5. Regional Gaps: Are there specific ''ecosystem'' components that are missing from a geographic region you're interested in? (Indicate region.) How could that region fill the gaps?

6. Geographic Scales and Defining a ''Region'': Most existing examples of innovation ecosystems and industry or technology clusters are fairly local or metropolitan in scale—meetings and site visits aren't more than an hour or two drive away. But energy concerns, challenges, and resources are often shared across a much larger geographic

[1] Much has been written about innovation ecosystems, innovation clusters, industry clusters, and related concepts. The following links are only an illustrative sample: *http://erc-assoc.org/sites/default/files/topics/policy_studies/DJackson_Innovation%20Ecosystem_03-15-11.pdf* (National Science Foundation, 3/15/2011); *http://documents.worldbank.org/curated/en/623971467998460024/pdf/100899-REVISED-WP-PUBLIC-Box393259B-Tech-Innovation-Ecosystems.pdf* (World Bank, 1/11/2015); *http://www.innovationmanagement.se/2011/05/16/what-are-innovation-ecosystems-and-how-to-build-and-use-them/* (InnovationManagement.se blog, 5/16/2011); *http://masstech.org/innovation-ecosystem* (Massachusetts Technology Collaborative, undated).

[2] *Regional Innovation: National Prosperity, Summary Report of the Regional Competitiveness Initiative & Proceedings of the 2005 National Summit on Regional Innovation,* Council on Competitiveness, February 2006, *http://www.compete.org/storage/images/uploads/File/PDFFiles/RegionalInnovationNational Prosperity.pdf.*

[3] P. Carlson, R. Holm, and R. Uhalde, *Building Regional Partnerships for Economic Growth and Opportunity,* Jobs for the Future, 2011, *www.jff.org/sites/default/files/publications/Building_Regional_paper_020211.pdf.*

[4] C.W. Wessner and A.W. Wolff, eds., *Rising to the Challenge: U.S. Innovation Policy for the Global Economy,* National Academies Press, 2012, *https://www.nap.edu/read/13386/chapter/1.*

[5] S. Andes, M. Muro, and M. Stepp, *Going Local: Connecting the National Labs to their Regions to Maximize Innovation and Growth,* Advanced Industries Series, Brookings/ITIF/CCEI, September 2014, *www.brookings.edu/wp-content/uploads/2016/06/BMPP_DOE_Brief.pdf.*

[6] T.J. Glauthier and J.L. Cohon, co-chairs, *Securing America's Future: Realizing the Potential of the Department of Energy's National Laboratories. Final Report of the Commission to Review the Effectiveness of the National Energy Laboratories,* Vol. 1, October 2015, *http://energy.gov/sites/prod/files/2015/10/f27/FinalReport Volume1.pdf.*

[7] Information and a report on the events can be found at *http://www.energy.gov/mission-innovation/university-forums.*

region. How should regional strategies or coalitions try to bridge those geographic scales? The university-hosted events that DOE attended defined their ''regions'' in different ways—how should a regional energy cluster or innovation ecosystem define its scope or boundaries?

7. Cooperating Regionally: If local or regional organizations want to collaborate to help foster or enhance a regional energy innovation ecosystem, how should they organize or collaborate? Does the answer differ depending on geographic scale?

8. Regional Opportunities: What are the energy challenges, resources, or technologies that offer the most innovation opportunity to your region? (Identify region.) What would be the greatest strengths or weaknesses of your region in trying to create or enhance an energy innovation ecosystem?

9. References and Models: Recommend references, studies, data sources, or models (including foreign innovation centers).

IV. Confidential Information

Because all idea and comments submissions are publicly visible, respondents are strongly advised to not include any information in their responses that might be considered business sensitive, proprietary, or otherwise confidential. Because the IdeaBuzz platform is not a government Web site, DOE is not able to provide any confidentiality protections for ideas submitted on the IdeaBuzz platform.

Issued in Washington, DC, on January 18, 2017.

Franklin M. Orr, Jr.,

Under Secretary for Science and Energy.

[FR Doc. 2017–01694 Filed 1–24–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–31–000]

Tallgrass Interstate Gas Transmission, LLC; Notice of Request Under Blanket Authorization

Take notice that on January 9, 2017, Tallgrass Interstate Gas Transmission, LLC (Tallgrass), Post Office Box 281304, Lakewood, Colorado 80228–8304, filed in Docket No. CP17–31–000 and pursuant to Sections 157.205 and 157.216 of the Commission's regulations, a prior notice under its Part 157 blanket certificate that it intends to abandon in place two 12-inch loop pipeline segments, a total of approximately 15,335 feet, along its Palco to Phillipsburg Pipeline in Rooks County, Kansas, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Tallgrass states that the pipe segments, which loop the 12-inch Palco to Phillipsburg Pipeline where it crosses the South Fork Solomon River and near the Webster Reservoir respectively are redundant and no longer necessary. Abandoning the pipe segments from service will eliminate a potential safety hazard. The proposed abandonment will not result in or cause any interruption, reduction, or termination of transportation service presently rendered by TALLGRASS. Therefore, TALLGRASS proposes to abandon in place the two 12-inch pipe segments.

Any questions regarding this Application should be directed to David Haag, Vice President of Regulatory, Tallgrass Interstate Gas Transmission, LLC, 370 Van Gordon St., Lakewood, Colorado 80228–1519, phone (303) 763–3258.

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the NGA (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenter's will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenter's will not be required to serve copies of filed documents on all other parties. However, the non-party commentary, will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a) (1) (iii) and the instructions on the Commission's Web site (*www.ferc.gov*) under the ''e-Filing'' link. Persons unable to file electronically should submit original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Dated: January 18, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–01671 Filed 1–24–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2532–008*; ER10–2534–002; ER10–2535–003.*

Applicants: Crescent Ridge LLC, Kumeyaay Wind LLC, Mendota Hills, LLC.

Description: Notice of Non-Material Change in Status of Crescent Ridge LLC, et. al.

Filed Date: 1/18/17.

Accession Number: 20170118–5142.

Comments Due: 5 p.m. ET 2/8/17.

Docket Numbers: ER13–764–016; ER14–1927–004; ER12–2498–016; ER12–2499–016; ER14–1776–007; ER12–1566–010; ER14–1548–009; ER11–3987–011; ER17–382–001; ER17–383–001; ER17–384–001; ER12–199–013.

Applicants: CED White River Solar, LLC, CED White River Solar 2, LLC, Alpaugh 50, LLC, Alpaugh North, LLC, Broken Bow Wind II, LLC, Copper Mountain Solar 2, LLC, Copper Mountain Solar 3, LLC, Mesquite Solar 1, LLC, CED Ducor Solar 1, LLC, CED Ducor Solar 2, LLC, CED Ducor Solar 3, LLC, Coram California Development, L.P.

Description: Notice of Non-Material Change in Status of the Consolidated Edison, Inc. subsidiaries.

Filed Date: 1/17/17.

Accession Number: 20170117–5316.

Comments Due: 5 p.m. ET 2/7/17.

Docket Numbers: ER15–2356–001.

Applicants: Southwest Power Pool, Inc.

Description: Compliance filing: MidAmerican Energy Company Att AH SA Substitute 2725R1 to be effective 10/1/2015.

Filed Date: 1/18/17.

Accession Number: 20170118–5052.

Comments Due: 5 p.m. ET 2/8/17.

Docket Numbers: ER17–434–001.

Applicants: Alcoa Power Generating Inc.

Description: Tariff Amendment: Supplement to Executed TSA for Native Load Customer—APGI (Long Sault) & Alcoa to be effective 11/1/2016.

Filed Date: 1/18/17.

Accession Number: 20170118–5091.

Comments Due: 5 p.m. ET 2/8/17.

Docket Numbers: ER17–435–001.

Applicants: Alcoa Power Generating Inc.

Description: Tariff Amendment: Supplement to Executed TSA for Native Load Customer—APGI (Tapoco) & Arconic to be effective 11/1/2016.

Filed Date: 1/18/17.

Accession Number: 20170118–5093.

Comments Due: 5 p.m. ET 2/8/17.

Docket Numbers: ER17–438–001.

Applicants: Alcoa Power Generating Inc.

Description: Tariff Amendment: Supp to Executed TSA for Native Load Customer—APGI (Long Sault) & Arconic to be effective 11/1/2016.

Filed Date: 1/18/17.

Accession Number: 20170118–5092.

Comments Due: 5 p.m. ET 2/8/17.

Docket Numbers: ER17–644–001.

Applicants: Talen Energy Marketing, LLC.

Description: Tariff Amendment: Amended Market-Based Rate Tariff to be effective 3/20/2017.

Filed Date: 1/18/17.

Accession Number: 20170118–5086.

Comments Due: 5 p.m. ET 2/8/17.

Docket Numbers: ER17–645–001.

Applicants: Talen Montana, LLC.

Description: Tariff Amendment: Amended Revised Market-Base Rate Tariff to be effective 3/20/2017.

Filed Date: 1/18/17.

Accession Number: 20170118–5094.

Comments Due: 5 p.m. ET 2/8/17.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH17–6–000.

Applicants: Consolidated Edison, Inc.

Description: Consolidated Edison, Inc. submits FERC 65–B Material Change in Facts of Waiver Notification.

Filed Date: 1/17/17.

Accession Number: 20170117–5318.

Comments Due: 5 p.m. ET 2/7/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 18, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–01639 Filed 1–24–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF14–1–001]

Southwestern Power Administration; Notice of Filing

Take notice that on January 3, 2017, the Deputy Secretary of the Department of Energy, pursuant to the authority vested by sections 301(b), 302(a), 402(e), 641, 642, 643, and 644, of the Department of Energy Organization Act (Pub. L. 95–91), and by Delegation Order Nos. 00–037.00A (October 25, 2013) and 00–001.00F (November 17, 2014), confirmed, approved, and placed in effect on an interim basis in Rate Order SWPA–71, Southwestern Power Administration Integrated System Non-Federal Transmission Service Rates Scheduled for the period January 1, 2017 through September 30, 2017.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on February 17, 2017.

Dated: January 18, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–01640 Filed 1–24–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 2897–047]

S.D. Warren; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Extension of Time.

b. *Project No.:* 2897–047.

c. *Date Filed:* November 15, 2016, supplemented on December 28, 2016.

d. *Applicant:* S.D. Warren Company.

e. *Name of Project:* Saccarappa Hydroelectric Project.

f. *Location:* On the Presumpscot River in Westbrook, Cumberland County, Maine.

g. *Filed Pursuant to:* 18 CFR 385.2008.

h. *Applicant Contact:* Barry Stemm, Senior Engineer, Sappi North America, P.O. Box 5000, Westbrook, ME 04098, (207) 856–4584, and Briana K. O'Regan, Esq., Assistant General Counsel, Sappi North America, 179 John Roberts Road, South Portland, ME 04106, (207) 854–7070.

i. *FERC Contact:* Ms. Jennifer Polardino, (202) 502–6437, or *Jennifer.polardino@ferc.gov.*

j. Deadline for filing comments, motions to intervene, and protests, is 15 days from the issuance date of this notice. The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, and recommendations, using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–2897–047.

k. *Description of Request:* The licensee filed an application to extend the deadline to provide for operational upstream passage for anadromous fish at the Saccarappa Project until May 2019. The extended deadline would be in accordance with the revised section 18 fishway prescriptions filed by the U.S. Fish and Wildlife Service on November 15, 2016, and the revised water quality certificate (WQC) conditions issued by the Maine Department of Environmental Protection on December 27, 2016. The licensee indicates the additional time is necessary for the parties to undertake certain obligations pursuant to a November 15, 2016 Settlement Agreement to provide safe, timely, and effective fish passage at the Saccarappa site after any surrender of the project is approved. The Settlement Agreement is between the licensee and the U.S. Fish and Wildlife Service, Maine Department of Marine Resources, Conservation Law Foundation, Friends of the Presumpscot River, and City of Westbrook, Maine.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of proposed action. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: January 18, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–01673 Filed 1–24–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14810–000]

Chugach Electric Association, Inc.; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On December 23, 2016, Chugach Electric Association, Inc. filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the

feasibility of the Snow River Hydroelectric Project (Snow River Project or project) to be located on the Snow River, near Seward in the Kenai Peninsula Borough, Alaska. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission. The project would utilize 15,957 acres of land owned by the U.S. Forest Service.

The project consists of two alternatives both using the following new facilities: (1) A 700-foot-long, 300-foot-high concrete-faced rockfill or roller compacted concrete gravity dam with a 400-foot-long spillway built into the crest of the dam; (2) a 300-foot-long, 60-foot-high concrete-faced rockfill or roller compacted concrete gravity auxiliary dam on the right bank; (3) a 500-foot-long, 80-foot-high concrete-faced rockfill or roller compacted concrete gravity auxiliary dam on the left bank; and (4) a 5,321-acre reservoir.

Alternative 1

(1) A 10,040-foot-long, 14 foot-diameter horseshoe intake tunnel; (2) a 1,140-foot long, 173-inch-diameter steel penstock; (3) an 80-foot-long, 100-foot-wide pre-engineered metal powerhouse with three turbine units rated at 25 megawatts (MW) each for 75 MW total; (4) a submerged tailrace discharge; (5) a 2.55-mile-long, 69-kilovolt (kV) transmission line tying into an existing high voltage transmission line located west of the proposed powerhouse; (6) a 1,410-foot-long access road to the intake tunnel and dam; (7) a 6,858-foot-long access road to the powerhouse; and (8) appurtenant facilities.

Alternative 2

(1) A 3,310-foot-long, 14 foot-diameter horseshoe intake tunnel; (2) a 2,650-foot long, 173-inch-diamater steel penstock; (3) the same powerhouse, turbine, tailrace and transmission line as described above for Alternative 1; (4) a 12,600-foot-long access road to the intake tunnel and dam; (5) a 8,000-foot-long access road to the powerhouse; and (6) appurtenant facilities.

The estimated annual generation of the Snow River Project would be 341 gigawatt-hours.

Applicant Contact: Mr. Paul Risse, Senior Vice President, Chugach Electric Association, Inc., 5601 Electron Drive, Anchorage, AK 99518; phone: (907) 563–7494.

FERC Contact: Julia Kolberg, phone: (202) 502–8261 or email: *Julia.kolberg@ferc.gov.*

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14810–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14810) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: January 18, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–01675 Filed 1–24–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER17–310–001.

Applicants: Southwest Power Pool, Inc.

Description: Compliance filing: Clarify TCR Electrically Equivalent Settlement Location Compliance Filing to be effective 1/5/2017.

Filed Date: 1/17/17.

Accession Number: 20170117–5154.

Comments Due: 5 p.m. ET 2/7/17.

Docket Numbers: ER17–800–000.

Applicants: CED White River Solar 2, L.L.C.

Description: § 205(d) Rate Filing: Revisions to Market-Based Rates Tariff to be effective 1/18/2017.

Filed Date: 1/17/17.

Accession Number: 20170117–5173.

Comments Due: 5 p.m. ET 2/7/17.

Docket Numbers: ER17–801–000.

Applicants: Constellation Power Source Generation, LLC.

Description: § 205(d) Rate Filing: Reactive Service Rate Schedule Filings to be effective 3/17/2017.

Filed Date: 1/17/17.

Accession Number: 20170117–5223.

Comments Due: 5 p.m. ET 2/7/17.

Docket Numbers: ER17–802–000.

Applicants: Exelon Generation Company, LLC.

Description: § 205(d) Rate Filing: Reactive Service Rate Schedules to be effective 3/17/2017.

Filed Date: 1/17/17.

Accession Number: 20170117–5224.

Comments Due: 5 p.m. ET 2/7/17.

Docket Numbers: ER17–803–000.

Applicants: Handsome Lake Energy, LLC.

Description: § 205(d) Rate Filing: Reactive Service Rate Schedule Filings to be effective 3/17/2017.

Filed Date: 1/17/17.

Accession Number: 20170117–5225.

Comments Due: 5 p.m. ET 2/7/17.

Docket Numbers: ER17–804–000.

Applicants: Coram California Development, L.P.

Description: § 205(d) Rate Filing: Revisions to Market-Based Rate Tariff to be effective 1/18/2017.

Filed Date: 1/17/17.

Accession Number: 20170117–5259.

Comments Due: 5 p.m. ET 2/7/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 17, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–01633 Filed 1–24–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AC17–40–000]

Black Marlin Pipeline Company; Notice of Petition for Waiver

Take notice that on January 17, 2017, Black Marlin Pipeline Company filed a petition for waiver of CPA Certification Statement for its FERC Form 2–A submittals encompassing the report years 2016 and 2017, as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comments: 5:00 p.m. Eastern Time on February 7, 2017.

Dated: January 18, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–01679 Filed 1–24–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Staff Attendance at the Southwest Power Pool Regional Entity Trustee, Regional State Committee, Members' Committee and Board of Directors' Meetings

The Federal Energy Regulatory Commission (Commission) hereby gives notice that members of its staff may attend the meetings of the Southwest Power Pool, Inc. Regional Entity Trustee (RET), Regional State Committee (RSC), Members' Committee and Board of Directors as noted below. Their attendance is part of the Commission's ongoing outreach efforts.

All meetings will be held at the Doubletree Hotel, 4099 Valley View Lane, Dallas, TX 75244. The phone number is (972) 385–9000. All meetings are Central Time.

SPP RET

January 30, 2017 (8:00–5:00 p.m.)

SPP RSC

January 30, 2017 (1:00 p.m.–5:00 p.m.)

SPP Members/Board of Directors

January 31, 2017 (8:00 a.m.–3:00 p.m.)

The discussions may address matters at issue in the following proceedings:

Docket No. ER11–1844, *Midcontinent Independent System Operator, Inc.*
Docket No. ER12–1179, *Southwest Power Pool, Inc.*
Docket No. ER14–2850, *Southwest Power Pool, Inc.*
Docket No. ER15–1499, *Southwest Power Pool, Inc.*
Docket No. ER15–1775, *Southwest Power Pool, Inc.*
Docket No. ER15–1777, *Southwest Power Pool, Inc.*
Docket No. ER15–1943, *Southwest Power Pool, Inc.*
Docket No. ER15–1976, *Southwest Power Pool, Inc.*
Docket No. ER15–2028, *Southwest Power Pool, Inc.*
Docket No. ER15–2115, *Southwest Power Pool, Inc.*
Docket No. ER15–2324, *Southwest Power Pool, Inc.*
Docket No. ER15–2347, *Southwest Power Pool, Inc.*
Docket No. ER15–2351, *Southwest Power Pool, Inc.*
Docket No. ER15–2356, *Southwest Power Pool, Inc.*
Docket No. EL16–91, *Southwest Power Pool, Inc.*
Docket No. EL16–108, *Tilton Energy* v. *Midcontinent Independent System Operator, Inc.*
Docket No. EL16–110, *Southwest Power Pool, Inc.*
Docket No. ER16–13, *Southwest Power Pool, Inc.*
Docket No. ER16–204, *Southwest Power Pool, Inc.*
Docket No. ER16–209, *Southwest Power Pool, Inc.*
Docket No. ER16–791, *Southwest Power Pool, Inc.*
Docket No. ER16–829, *Southwest Power Pool, Inc.*
Docket No. ER16–846, *Southwest Power Pool, Inc.*
Docket No. ER16–862, *Southwest Power Pool, Inc.*
Docket No. ER16–863, *Southwest Power Pool, Inc.*
Docket No. ER16–932, *Southwest Power Pool, Inc.*
Docket No. ER16–1211, *Midcontinent Independent System Operator, Inc.*
Docket No. ER16–1305, *Southwest Power Pool, Inc.*
Docket No. ER16–1351, *Westar Energy, Inc.*
Docket No. ER16–1314, *Southwest Power Pool, Inc.*
Docket No. ER16–1341, *Southwest Power Pool, Inc.*
Docket No. ER16–1546, *Southwest Power Pool, Inc.*
Docket No. ER16–1797, *Midcontinent Independent System Operator, Inc.*
Docket No. ER16–1799, *Southwest Power Pool, Inc.*
Docket No. ER16–1912, *Southwest Power Pool, Inc.*
Docket No. ER16–1945, *Southwest Power Pool, Inc.*
Docket No. ER16–2522, *Southwest Power Pool, Inc.*
Docket No. ER16–2523, *Southwest Power Pool, Inc.*
Docket No. EL17–11, *Alabama Power Co.*
Docket No. EL17–21, *Kansas Electric Co.*
Docket No. EL17–29, *American Municipal Power*
Docket No. ER17–236, *Southwestern Public Service Co.*
Docket No. ER17–238, *Southwestern Public Service Co.*
Docket No. ER17–253, *Southwest Power Pool, Inc.*
Docket No. ER17–264, *Southwest Power Pool, Inc.*
Docket No. ER17–267, *Southwestern Public Service Co.*
Docket No. ER17–300, *Southwest Power Pool, Inc.*
Docket No. ER17–353, *Southwest*

Power Pool, Inc.
Docket No. ER17–358, *Southwest Power Pool, Inc.*
Docket No. ER17–426, *Southwest Power Pool, Inc.*
Docket No. ER17–427, *Southwest Power Pool, Inc.*
Docket No. ER17–428, *Southwest Power Pool, Inc.*
Docket No. ER17–469, *Southwest Power Pool, Inc.*
Docket No. ER17–483, *Southwest Power Pool, Inc.*
Docket No. ER17–587, *Southwest Power Pool, Inc.*
Docket No. ER17–589, *Southwest Power Pool, Inc.*
Docket No. ER17–591, *Southwest Power Pool, Inc.*
Docket No. ER17–722, *ITC Midwest, LLC*
Docket No. ER17–738, *Southwest Power Pool, Inc.*
Docket No. ER17–739, *Southwest Power Pool, Inc.*
Docket No. ER17–745, *ITC Midwest, LLC*
Docket No. ER17–749, *Southwest Power Pool, Inc.*
Docket No. ER17–762, *Southwest Power Pool, Inc.*

These meetings are open to the public.

For more information, contact Patrick Clarey, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (317) 249–5937 or *patrick.clarey@ferc.gov.*

Dated: January 18, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–01672 Filed 1–24–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Number: PR17–17–000.

Applicants: DTE Gas Company.

Description: Tariff filing per 284.123(b), (e)/: DTE Gas Operating Statement Update to be effective 12/16/2016; Filing Type: 1000.

Filed Date: 1/6/2017.

Accession Number: 201701065060.

Comments/Protests Due: 5 p.m. ET 1/27/17.

Docket Numbers: RP17–336–000.

Applicants: East Tennessee Natural Gas, LLC.

Description: § 4(d) Rate Filing: January 2017 Negotiated Rate Cleanup Filing to be effective 2/17/2017.

Filed Date: 1/17/17.

Accession Number: 20170117–5127.

Comments Due: 5 p.m. ET 1/30/17.

Docket Numbers: RP17–337–000.

Applicants: Algonquin Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Jan2017 Removal of Terminated Statements of Negotiated Rates to be effective 2/17/2017.

Filed Date: 1/17/17.

Accession Number: 20170117–5130.

Comments Due: 5 p.m. ET 1/30/17.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP17–320–001.

Applicants: Texas Gas Transmission, LLC.

Description: Tariff Amendment: Amendment to Filing in Docket No. RP17–320–000 to be effective 1/1/2017.

Filed Date: 1/17/17.

Accession Number: 20170117–5030.

Comments Due: 5 p.m. ET 1/30/17.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 17, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–01634 Filed 1–24–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF17–1–000]

DTE Midstream Appalachia, LLC; Notice of Intent To Prepare an Environmental Assessment for the Planned Birdsboro Pipeline Project, and Request for Comments on Environmental Issues, and Notice of Public Scoping Session

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Birdsboro Pipeline Project involving construction and operation of facilities by DTE Midstream Appalachia, LLC (DTE) in Berks County, Pennsylvania. The Commission will use this EA in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the EA. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before February 17, 2017.

If you sent comments on this project to the Commission before the opening of this docket on October 14, 2016, you will need to file those comments in Docket No. PF17–1–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this planned project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the planned facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the project, that approval

conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' is available for viewing on the FERC Web site (*www.ferc.gov*). This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings.

Public Participation

For your convenience, there are four methods you can use to submit your comments to the Commission. The Commission will provide equal consideration to all comments received, whether filed in written form or provided verbally. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* This is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.*'' If you are filing a comment on a particular project, please select ''Comment on a Filing'' as the filing type; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project docket number (PF17–1–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426;

(4) In lieu of sending written or electronic comments, the Commission invites you to attend the public scoping session its staff will conduct in the project area, scheduled as follows:

Date and time	Location
Thursday, February 2, 2017, 5:30–10:00 p.m.	Oley Fair Center, 26 Jefferson Street, Oley, PA, 484–256–8009.

The primary goal of these scoping sessions is to have you identify the specific environmental issues and concerns that should be considered in the EA to be prepared for this project. Individual verbal comments will be taken on a one-on-one basis with a court reporter. This format is designed to receive the maximum amount of verbal comments, in a convenient way during the timeframe allotted.

The scoping session is scheduled from 5:30 p.m. to 10:00 p.m. Eastern Standard Time. You may arrive at any time after 5:30 p.m. There will not be a formal presentation by Commission staff when the session opens. If you wish to speak, the Commission staff will hand out numbers in the order of your arrival; distribution of numbers will be discontinued at 8:00 p.m. Please see appendix 1 for additional information on the session format and conduct.[1]

Your scoping comments will be recorded by the court reporter (with FERC staff or representative present) and become part of the public record for this proceeding. Transcripts will be publicly available on FERC's eLibrary system (see below for instructions on using eLibrary). If a significant number of people are interested in providing verbal comments in the one-on-one settings, a time limit of 5 minutes may be implemented for each commentor.

It is important to note that verbal comments hold the same weight as written or electronically submitted comments. Although there will not be a formal presentation, Commission staff will be available throughout the comment session to answer your questions about the environmental review process. Representatives from DTE will also be present to answer project-specific questions.

Summary of the Planned Project

DTE plans to construct and operate about 14 miles of up to 16-inch-diameter pipeline and appurtenant facilities. The purpose of the planned Birdsboro Pipeline Project is to provide about 79,000 dekatherms of natural gas per day to the Birdsboro Power Plant in Berks County, Pennsylvania. The Birdsboro Power Plant is not under the jurisdiction of FERC and will not be part of the proposed action evaluated in the EA. The power plant is/will be obtaining multiple federal, state, and local permits and approvals for construction and operation of the facility.

The Birdsboro Pipeline Project would consist of the following facilities:

- About 14 miles of up to 16-inch-diameter pipeline;
- a pig launcher and receiver; [2]
- a new meter station and associated facilities at the Texas Eastern Transmission Company Pipeline right-of-way; and
- 6 new mainline valves.

The general location of the project facilities is shown in appendix 2.

Land Requirements for Construction

Construction of the planned facilities would disturb about 147.8 acres of land for the aboveground facilities and the pipeline. Following construction, DTE would maintain about 82.7 acres for permanent operation of the project's facilities; the remaining acreage would be restored and revert to former uses.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [3] to discover and address concerns the public may have about proposals. This process is referred to as scoping. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. We will consider all filed comments during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the planned project under these general headings:

- Geology and soils;
- land use;
- water resources, fisheries, and wetlands;
- cultural resources;

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[2] A ''pig'' is a tool that the pipeline company inserts into and pushes through the pipeline for cleaning the pipeline, conducting internal inspections, or other purposes.

[3] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Commission's Office of Energy Projects.

- vegetation and wildlife;
- air quality and noise;
- endangered and threatened species;
- public safety; and
- cumulative impacts.

We will also evaluate possible alternatives to the planned project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Although no formal application has been filed, we have already initiated our NEPA review under the Commission's pre-filing process. The purpose of the pre-filing process is to encourage early involvement of interested stakeholders and to identify and resolve issues before the FERC receives an application. As part of our pre-filing review, we have begun to contact some federal and state agencies to discuss their involvement in the scoping process and the preparation of the EA.

The EA will present our independent analysis of the issues. The EA will be available in the public record through eLibrary. We will also publish and distribute the EA to the public for an allotted comment period. We will consider all comments on the EA before we make our recommendations to the Commission. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section, beginning on page 2.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues related to this project to formally cooperate with us in the preparation of the EA.[4] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the applicable State Historic Preservation Office(s), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[5] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPO(s) as the project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the planned project.

Copies of the EA will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 3).

Becoming an Intervenor

Once DTE files its application with the Commission, you may want to become an ''intervenor'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Motions to intervene are more fully described at *http://www.ferc.gov/resources/guides/how-to/intervene.asp.* Instructions for becoming an intervenor are in the ''Document-less Intervention Guide'' under the ''e-filing'' link on the Commission's Web site. Please note that the Commission will not accept requests for intervenor status at this time. You must wait until the Commission receives a formal application for the project.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.,* PF17–1). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Finally, public sessions or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: January 18, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–01676 Filed 1–24–17; 8:45 am]

BILLING CODE 6717–01–P

[4] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[5] The Advisory Council on Historic Preservation regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC17–32–000.

Applicants: American Illuminating Company, LLC.

Description: Supplement to November 14, 2016 Application for Authorization under Section 203 of the FPA of American Illuminating Company, LLC.
Filed Date: 1/13/17.
Accession Number: 20170113–5234.
Comments Due: 5 p.m. ET 1/23/17.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2331–062; ER10–2319–053; ER10–2317–053; ER13–1351–035; ER10–2330–060.
Applicants: J.P. Morgan Ventures Energy Corporation, BE CA LLC, BE Alabama LLC, Florida Power Development LLC, Utility Contract Funding, L.L.C.
Description: Non-Material Change in Status of the J.P. Morgan Sellers.
Filed Date: 1/17/17.
Accession Number: 20170117–5309.
Comments Due: 5 p.m. ET 2/7/17.

Docket Numbers: ER10–2984–032.
Applicants: Merrill Lynch Commodities, Inc.
Description: Notice of Non-Material Change in Status of Merrill Lynch Commodities, Inc.
Filed Date: 1/17/17.
Accession Number: 20170117–5308.
Comments Due: 5 p.m. ET 2/7/17.

Docket Numbers: ER16–1152–002.
Applicants: Jericho Rise Wind Farm LLC.
Description: Notice of Non-Material Change in Status of Jericho Rise Wind Farm LLC.
Filed Date: 1/17/17.
Accession Number: 20170117–5307.
Comments Due: 5 p.m. ET 2/7/17.

Docket Numbers: ER17–512–001.
Applicants: Virginia Electric and Power Company.
Description: Compliance filing: Compliance Filing—Informational Filing (Yorktown) to be effective N/A.
Filed Date: 1/17/17.
Accession Number: 20170117–5262.
Comments Due: 5 p.m. ET 1/24/17.

Docket Numbers: ER17–805–000.
Applicants: Wyoming Colorado Intertie, LLC.
Description: Tariff Cancellation: Cancellation of OATT to be effective 1/18/2017.
Filed Date: 1/17/17.
Accession Number: 20170117–5271.
Comments Due: 5 p.m. ET 2/7/17.

Docket Numbers: ER17–806–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2017–01–17_Changes to Market Monitoring and Mitigation in the PRA to be effective 2/1/2017.
Filed Date: 1/17/17.
Accession Number: 20170117–5272.
Comments Due: 5 p.m. ET 2/7/17.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF17–538–000.
Applicants: Central CA Fuel Cell 1, LLC.
Description: Form 556 of Central CA Fuel Cell 1, LLC.
Filed Date: 1/17/17.
Accession Number: 20170117–5310.
Comments Due: None Applicable.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 18, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–01642 Filed 1–24–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC17–62–000.
Applicants: NSTAR Electric Company, Western Massachusetts Electric Company.
Description: Application For Approval of Internal Corporate Reorganization under Section 203 of the FPA of NSTAR Electric Company, et al.
Filed Date: 1/13/17.
Accession Number: 20170113–5237.
Comments Due: 5 p.m. ET 2/3/17.

Docket Numbers: EC17–63–000.
Applicants: 62SK 8ME LLC, 63SU 8ME LLC, Balko Wind, LLC, Balko Wind Transmission, LLC, North Star Solar PV LLC, Portal Ridge Solar B, LLC, Portal Ridge Solar C, LLC, Red Horse Wind 2, LLC, Red Horse III, LLC, TPE Alta Luna, LLC.
Description: Application for Authorization of Transaction under Section 203 of the FPA of 62SK 8ME LLC.
Filed Date: 1/13/17.
Accession Number: 20170113–5240.
Comments Due: 5 p.m. ET 2/3/17.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG17–44–*000.*
Applicants: SolaireHolman 1 LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of SolaireHolman 1 LLC.
Filed Date: 1/13/17.
Accession Number: 20170113–5087.
Comments Due: 5 p.m. ET 2/3/17.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER16–1983–001.
Applicants: California Independent System Operator Corporation.
Description: Compliance filing: 2013–01–13 Petition Limited Tariff Waiver Delay Implementation RTD LMPM to be effective N/A.
Filed Date: 1/13/17.
Accession Number: 20170113–5201.
Comments Due: 5 p.m. ET 1/20/17.

Docket Numbers: ER17–79–002.
Applicants: Portland General Electric Company.
Description: Compliance filing: Combined Order 827 and 828 Amendment Filing to be effective 10/14/2016.
Filed Date: 1/17/17.
Accession Number: 20170117–5033.
Comments Due: 5 p.m. ET 2/7/17.

Docket Numbers: ER17–210–003.
Applicants: Sabine Cogen, LP.
Description: Compliance filing: Complaince Filing to be effective 1/1/2017.
Filed Date: 1/13/17.
Accession Number: 20170113–5168.
Comments Due: 5 p.m. ET 2/3/17.

Docket Numbers: ER17–556–000.
Applicants: Grady Wind Energy Center, LLC.
Description: Supplement to December 15, 2016 Grady Wind Energy Center, LLC tariff filing.
Filed Date: 1/12/17.
Accession Number: 20170112–5142.
Comments Due: 5 p.m. ET 2/2/17.

Docket Numbers: ER17–792–000.
Applicants: Michigan Electric Transmission Company, LLC.
Description: § 205(d) Rate Filing: Filing of Modifications to Agreement to be effective 3/15/2017.

Filed Date: 1/13/17.
Accession Number: 20170113–5162.
Comments Due: 5 p.m. ET 2/3/17.

Docket Numbers: ER17–793–000.
Applicants: Westar Energy, Inc.
Description: § 205(d) Rate Filing: Modification to TFR Template for AROs to Comply with Audit Report to be effective 3/14/2017.
Filed Date: 1/13/17.
Accession Number: 20170113–5172.
Comments Due: 5 p.m. ET 2/3/17.

Docket Numbers: ER17–794–000.
Applicants: Southern California Edison Company.
Description: § 205(d) Rate Filing: Certificate of Concurrence CAISO Amended TCA Docket No. ER17–694–000 to be effective 3/1/2017.
Filed Date: 1/13/17.
Accession Number: 20170113–5198.
Comments Due: 5 p.m. ET 2/3/17.

Docket Numbers: ER17–795–000.
Applicants: ISO New England Inc.
Description: § 205(d) Rate Filing: Filing of CONE and ORTP Updates to be effective 3/15/2017.
Filed Date: 1/13/17.
Accession Number: 20170113–5199.
Comments Due: 5 p.m. ET 2/3/17.

Docket Numbers: ER17–796–000.
Applicants: Midcontinent Independent System Operator, Inc., Consumers Energy Company.
Description: § 205(d) Rate Filing: 2017–01–12 SA 2913 Wolverine-Consumers FCA Termination to be effective 1/14/2017.
Filed Date: 1/13/17.
Accession Number: 20170113–5205.
Comments Due: 5 p.m. ET 2/3/17.

Docket Numbers: ER17–797–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2017–01–13_Entergy Interconnection Agreement 2017 Succession Filing to be effective 12/19/2013.
Filed Date: 1/13/17.
Accession Number: 20170113–5213.
Comments Due: 5 p.m. ET 2/3/17.

Docket Numbers: ER17–798–000.
Applicants: Duke Energy Florida, LLC.
Description: Tariff Cancellation: DEF SA Cancellation Filing to be effective 1/18/2017.
Filed Date: 1/17/17.
Accession Number: 20170117–5131.
Comments Due: 5 p.m. ET 2/7/17.

Docket Numbers: ER17–799–000.
Applicants: Public Service Company of Colorado.
Description: § 205(d) Rate Filing: PSCo-HLYCRS–354–NOC to be effective 1/18/2017.
Filed Date: 1/17/17.
Accession Number: 20170117–5134.
Comments Due: 5 p.m. ET 2/7/17.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES17–10–000.
Applicants: NSTAR Electric Company.
Description: Application of NSTAR Electric Company under Section 204 of the FPA for Authority to Assume Short-Term Debt Obligations of its affiliate, Western Mass Electric Company.
Filed Date: 1/13/17.
Accession Number: 20170113–5238.
Comments Due: 5 p.m. ET 2/3/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 17, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–01632 Filed 1–24–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10887–028]

Carthage Specialty Paperboard, Inc.; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

a. Type of Filing: Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.
b. Project No.: 10887–028.
c. *Date Filed:* October 28, 2016.
d. *Submitted By:* Carthage Specialty Paperboard, Inc.
e. *Name of Project:* Carthage Paper Makers Mill Project.
f. *Location:* On the Black River, in Jefferson and Lewis Counties New York. No federal lands are occupied by the project works or located within the project boundary.
g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.
h. Potential *Applicant Contact:* Mr. Fred Goutremout, 30 Champion Street, Carthage, New York 13619, Phone: (315) 493–5518.
i. *FERC Contact:* Gaylord Hoisington (202) 502–6032; or email at *gaylord.hoisington@ferc.gov.*
j. Carthage Specialty Paperboard, Inc. filed its request to use the Traditional Licensing Process on October 28, 2016. Carthage Specialty Paperboard, Inc. provided public notice of its request on November 4, 2016. In a letter dated January 18, 2017, the Director of the Division of Hydropower Licensing approved Carthage Specialty Paperboard, Inc.'s request to use the Traditional Licensing Process.
k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, part 402; and NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920. We are also initiating consultation with the New York State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.
l. With this notice, we are designating Carthage Specialty Paperboard, Inc. as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act and section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act; and consultation pursuant to section 106 of the National Historic Preservation Act.
m. Carthage Specialty Paperboard, Inc. filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.
n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659

(TTY). A copy is also available for inspection and reproduction at the address in paragraph h.

o. The licensee states its unequivocal intent to submit an application for a new license for Project No. 10887–028. Pursuant to 18 CFR 16.8, 16.9, and 16.10 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by October 31, 2019.

p. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: January 18, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–01674 Filed 1–24–17; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10432—Fidelity Bank, Dearborn, Michigan

Notice is hereby given that the Federal Deposit Insurance Corporation (''FDIC'') as Receiver for Fidelity Bank, Dearborn, Michigan (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed receiver of Fidelity Bank on March 30, 2012. 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: January 19, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–01660 Filed 1–24–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10106—CapitalSouth Bank, Birmingham, Alabama

Notice is hereby given that the Federal Deposit Insurance Corporation (''FDIC'') as Receiver for CapitalSouth Bank, Birmingham, Alabama (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed receiver of CapitalSouth Bank on August 21, 2009. 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: January 19, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–01659 Filed 1–24–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Savings and Loan Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Home Owners' Loan Act (12 U.S.C. 1461 *et seq.*) (HOLA), Regulation LL (12 CFR part 238), and Regulation MM (12 CFR part 239), and all other applicable statutes and regulations to become a savings and loan holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a savings association and nonbanking companies owned by the savings and loan holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the HOLA (12 U.S.C. 1467a(e)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 10(c)(4)(B) of the HOLA (12 U.S.C. 1467a(c)(4)(B)). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 21, 2017.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Hoyne Savings, MHC and Hoyne Financial Corporation, both of Chicago, Illinois; to acquire Prospect Federal Savings Bank, through the merger of Prospect Federal Savings Bank, Worth, Illinois with Hoyne Savings Bank, the wholly owned subsidiary of Hoyne Financial Corporation, both of Chicago, Illinois.

Board of Governors of the Federal Reserve System, January 19, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–01669 Filed 1–24–17; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 14, 2017.

A. Federal Reserve Bank of Dallas: (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Randall D. Lowery and Melody Lowery, both from Huntington, Texas, individually, and together as a group acting in concert;* to acquire shares of Huntington Bancshares, Inc., and thereby indirectly acquire shares of Huntington State Bank, Huntington, Texas, both in Huntington, Texas.

B. Federal Reserve Bank of Richmond: (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528. Comments can also be sent electronically to or *Comments.applications@rich.frb.org:*

1. *George W. McCall, Cedar Bluff, Virginia, to join a group acting in concert with Haley McLaren, Connor McCall, both of Richmond, Virginia; Lisa Merritt, Asheville, North Carolina; Jack D. Merritt, Jr., Abingdon, Virginia; and George W. McCall, as trustee of the First Sentinel Bank ESOP, Richlands, Virginia;* and thereby indirectly retain control of First Region Bancshares, Inc., and First Sentinel Bank, both of Richlands, Virginia.

C. Federal Reserve Bank of Kansas City: (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Douglas Briggs and Leigh Briggs, both of Olathe, Kansas; Christina Peters, Jodi Peters Lightfoot, all from Steamboat Springs, Colorado;* to join a group and to retain and acquire additional shares of First State Financial Corporation, Overland Park, Kansas, and indirectly The First State Bank and Trust Company of Larned, Larned, Kansas.

Board of Governors of the Federal Reserve System, January 19, 2017.

Yao Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–01670 Filed 1–24–17; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 21, 2017.

A. Federal Reserve Bank of Dallas (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Veritex Holdings, Inc., Dallas, Texas;* to merge with Sovereign Bancshares, Inc., and indirectly acquire Sovereign Bank, both of Dallas, Texas.

Board of Governors of the Federal Reserve System, January 19, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–01680 Filed 1–24–17; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request

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

ACTION: Notice and request for comment.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, the FTC is seeking public comments on its request to OMB for a three-year extension of the current PRA clearance for the FTC's portion of the information collection requirements contained in the Consumer Financial Protection Bureau's Regulation O (the Mortgage Assistance Relief Services Rule). The FTC shares enforcement of Regulation O with the Consumer Financial Protection Bureau (''CFPB''). This clearance expires on January 31, 2017.

DATES: Comments must be received by February 24, 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 ''Regulation O PRA Comment, FTC File No. P134812'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/regulationopra2* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex J), 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 J), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information requirements should be addressed to Rebecca Unruh, Attorney, Division of Financial Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Ave. NW., Washington, DC 20580, (202) 326–3565.

SUPPLEMENTARY INFORMATION:

Title: Mortgage Assistance Relief Services Rule (Regulation O), 12 CFR part 1015.

OMB Control Number: 3084–0157.

Type of Review: Extension of a currently approved collection.

Abstract: On November 17, 2016, the FTC sought public comment on the

information collection requirements associated with Regulation O. 81 FR 81140. No germane comments were received.[1] Pursuant to the OMB regulations, 5 CFR part 1320, that implement the PRA, 44 U.S.C. 3501 *et seq.,* the FTC is providing this second opportunity for public comment while seeking OMB approval to renew the pre-existing clearance for the Rule.

Because the FTC and CFPB share enforcement authority for this rule, the FTC is seeking clearance for one-half of the following estimated PRA burden that the FTC attributes to the disclosure requirements under Regulation O. The potential entities providing MARS services are varied, and there are no ways to formally track them. By extension, there is no clear path to track how many affected individual entities have newly entered and departed from one year to the next or from one triennial PRA clearance cycle to the next. However, based on law enforcement experience and the CFPB's recent analysis conducted after the MARS Rule was restated as Regulation O, the FTC estimates that Regulation O affects roughly 107 MARS providers.[2] This estimate informs the additional estimates detailed below.

Estimated annual hours burden: 321 (for the FTC).

The above hours estimate is based on the assumption that compliance with all MARS disclosures requires 6 hours of labor annually. Multiplying this figure by 107 entities yields a total burden of 642 hours, of which 321 hours are attributed to the FTC.

Estimated annual labor cost: $10,677 (for the FTC).

Commission staff assumes that a compliance officer or equivalent will prepare the required disclosures for 6 hours annually at an hourly rate of $33.26. Thus, the estimated labor cost is $21,353 (107 providers × 6 hours × $33.26) of which the FTC assumes half, or $10,677.

Estimated annual non-labor cost: $29,425 (for the FTC).

Based on the CFPB's analysis, the FTC assumes that each of the estimated 107 MARS providers bears an additional $550 in material fees for acquiring relevant legal and technical compliance information, for a total additional burden of $58,850, of which the FTC assumes half, or $29,425. Based on law enforcement experience, the FTC assumes that any disclosures will likely be made electronically and thus will not generate additional non-labor costs such as printing and distribution.

Request for Comment

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before February 24, 2017. Write ''Regulation O, PRA Comment, FTC File No. P134812'' 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 *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, such as anyone'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, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which is . . . privileged or confidential,'' as discussed in 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). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you are required to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c). Your comment will be kept confidential only if the FTC General Counsel grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comment online, or to send it to the Commission by courier or overnight service. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/regulationopra2,* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov,* you also may file a comment through that Web site.

If you file your comment on paper, write ''Regulation O, PRA Comment, FTC File No. P134812'' on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex J), 600 Pennsylvania Avenue NW., 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 J), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice. 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 February 24, 2017. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.shtm.*

Comments on the information collection requirements subject to review under the PRA should also be submitted to OMB. If sent by U.S. mail, address comments to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503. Comments sent to OMB by U.S. postal mail, however, are subject to delays due to heightened security precautions. Thus, comments instead should be sent by facsimile to (202) 395–5167.

Christian S. White,

Deputy General Counsel.

[FR Doc. 2017–01650 Filed 1–24–17; 8:45 am]

BILLING CODE 6750–01–P

[1] The Commission received four non-germane comments.

[2] See Bureau of Consumer Financial Protection, Agency Information Collection Activities: Submission for OMB Review; Supporting Statement (Jul. 23, 2015), available at *http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201507-3170-002;* OMB Control No: 3170–0007, clearance expires on Sept. 30, 2018.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces a meeting for the initial review of application in response to Funding Opportunity Announcement (FOA) PAR 15–303, Occupational Safety and Health Education and Research Centers (ERC).

Times and Dates: 8:00 a.m.–6:00 p.m., EST, February 22, 2017 (Closed), 8:00 a.m.–6:00 p.m., EST, February 23, 2017 (Closed), 8:00 a.m.–6:00 p.m., EST, February 24, 2017 (Closed).

Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, Virginia 22314, Telephone: (703) 837–0440.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters for Discussion: The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Occupational Safety and Health Education and Research Centers (ERC)'', PAR 15–303.

Contact Person for More Information: Michael Goldcamp, Ph.D., Scientific Review Officer, CDC, 1095 Willowdale Road, Morg Building H, Room 1806, Mailstop 1808, Morgantown, West Virginia, Telephone: (304) 285–5951, *EHG8@CDC.GOV*.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2017–01628 Filed 1–24–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Immunization Practices (ACIP)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announce the following meeting of the aforementioned committee.

Times and Dates: 8:00 a.m.–5:40 p.m., EST, February 22, 2017; 8:00 a.m.–1:00 p.m., EST, February 23, 2017.

Place: CDC, Tom Harkin Global Communications Center, 1600 Clifton Road NE., Building 19, Kent ''Oz'' Nelson Auditorium, Atlanta, Georgia 30329.

Status: Open to the public, limited only by the space available. Time will be available for public comment. The public is welcome to submit written comments in advance of the meeting. Comments should be submitted in writing by email to the contact person listed below. The deadline for receipt February 13, 2017. All requests must contain the name, address, and organizational affiliation of the speaker, as well as the topic being addressed. Written comments should not exceed one single-spaced typed page in length and delivered in 3 minutes or less. Please note that the public comment period may end before the time indicated, following the last call for comments. Members of the public who wish to provide public comments should plan to attend the public comment session at the start time listed. Written comments received in advance of the meeting will be included in the official record of the meeting.

The meeting will be webcast live via the World Wide Web; for instructions and more information on ACIP please visit the ACIP Web site: *http://www.cdc.gov/vaccines/acip/index.html*.

Purpose: The committee is charged with advising the Director, CDC, on the use of immunizing agents. In addition, under 42 U.S.C. 1396s, the committee is mandated to establish and periodically review and, as appropriate, revise the list of vaccines for administration to vaccine-eligible children through the Vaccines for Children (VFC) program, along with schedules regarding dosing interval, dosage, and contraindications to administration of vaccines. Further, under provisions of the Affordable Care Act, section 2713 of the Public Health Service Act, immunization recommendations of the ACIP that have been approved by the Director of the Centers for Disease Control and Prevention and appear on CDC immunization schedules must be covered by applicable health plans.

Matters for Discussion: The agenda will include discussions on: Meningococcal vaccine; influenza; hepatitis B vaccine; herpes zoster vaccine; vaccine safety; yellow fever vaccine; Zika virus vaccine; mumps outbreak; Dengue virus vaccines; Polio Eradication Initiative; Measles and Rubella Elimination Initiative; adult immunization and vaccine supply. A recommendation vote is scheduled for hepatitis B vaccine and influenza. A Vaccines for Children (VFC) vote is scheduled for hepatitis B vaccine.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Stephanie Thomas, National Center for Immunization and Respiratory Diseases, CDC, 1600 Clifton Road NE., MS–A27, Atlanta, Georgia 30329, telephone 404/639–8836; Email *ACIP@CDC.GOV*.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2017–01624 Filed 1–24–17; 8:45 am]

BILLING CODE 4160–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces a meeting for the initial review of applications in response to Funding Opportunity Announcement (FOA), RFA–CE–12–0010501SUPP16, Grants for Injury Prevention and Control.

Times and Dates: 8:00 a.m.–5:00 p.m., EST, February 21–22, 2017 (Closed).

Place: The Georgian Terrace, 659 Peachtree Street NE., Atlanta, GA 30308.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters for Discussion: The meeting will include the initial review, discussion, and evaluation of applications received in response to

''Grants for Injury Prevention and Control'', FOA RFA–CE–12–0010501SUPP16.

Contact Person for More Information: Oscar Tarrago, M.D., M.P.H., Scientific Review Officer, CDC, 4770 Buford Highway NE., Mailstop F63, Atlanta, Georgia 30341–3724, Telephone: (770) 488–3492.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2017–01626 Filed 1–24–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces a meeting for the initial review of applications in response to Funding Opportunity Announcement (FOA) PAR 13–129, Occupational Safety and Health Research, NIOSH Member Conflict Review.

Time and Date: 1:00 p.m.–5:00 p.m., EST, March 1, 2017 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters for Discussion: The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Occupational Safety and Health Research, NIOSH Member Conflict Review'', PAR 13–129.

Contact Person for More Information: Nina Turner, Ph.D., Scientific Review Officer, NIOSH, CDC, 1095 Willowdale Road, Mailstop G905, Morgantown, West Virginia 26506, Telephone: (304) 285–5976.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2017–01627 Filed 1–24–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces a meeting for the initial review of applications in response to Funding Opportunity Announcement (FOA) PS17–003, Innovative Internet-Based Approaches to Reach Black and Hispanic MSM for HIV Testing and Prevention Services; and FOA PS17–004, Comparison of Models of PrEP Service Delivery at Title X and STD Clinics.

Times and Dates: 10:00 a.m.–5:00 p.m., February 22–23, 2017 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters for Discussion: The meeting will include the initial review, discussion and evaluation of applications received in response to ''Innovative Internet-Based Approaches to Reach Black and Hispanic MSM for HIV Testing and Prevention Services'', PS17–003; and ''Comparison of Models of PrEP Service Delivery at Title X and STD Clinics'', PS17–004.

Contact person for More Information: Gregory Anderson, M.S., M.P.H., Scientific Review Officer, CDC, 1600 Clifton Road NE., Mailstop E60, Atlanta, Georgia 30329, Telephone: (404) 718–8833.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2017–01629 Filed 1–24–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Healthcare Infection Control Practices Advisory Committee: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Healthcare Infection Control Practices Advisory Committee, Department of Health and Human Services, has been renewed for a 2-year period through January 19, 2019.

For information, contact Jeffrey Hageman, M.H.S., Executive Secretary, Healthcare Infection Control Practices Advisory Committee, Department of Health and Human Services, 1600 Clifton Road NE., Mailstop A35, Atlanta, Georgia 30329, telephone 404–639–4951 or fax 404–639–2647.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2017–01625 Filed 1–24–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Multistate Financial Institution Data Match with Federally Assisted State Transmitted Levy (FIDM/FAST-Levy).

OMB No. : 0970–0196.

Description: Section 466(a)(17) of the Social Security Act (the Act) requires states to establish procedures for their child support agencies to enter into agreements with financial institutions doing business in their state for the purpose of securing information leading to the enforcement of child support orders. Under 452(l) and 466(a)(17)(A)(i) of the Act, the Secretary may aid state agencies conducting data matches with financial institutions doing business in two or more states by establishing a centralized and standardized matching program through the Federal Parent Locator Service.

To further assist states collect child support, the federal Office of Child Support Enforcement (OCSE) worked with child support agencies and financial institutions to develop the Federally Assisted State Transmitted (*FAST*) Levy system.

FAST Levy is a central, standardized, electronic process for child support agencies and financial institutions to exchange information about levying accounts to collect past-due support. OCSE picks up files created by child support agencies that contain *FAST* Levy requests and distributes them to financial institutions that use the *FAST* Levy system. Those financial institutions create response files that OCSE picks up and distributes to the child support agencies.

The FIDM/*FAST*-Levy information collection activities are authorized by: 42 U.S.C. 652(1), which authorizes OCSE, through the Federal Parent Locator Service, to aid state child support agencies and financial institutions doing business in two or more states reach agreements regarding the receipt from financial institutions, and the transfer to the state child support agencies, of information pertaining to the location of accounts held by obligors who owe past-due support; 42 U.S.C. 666(a)(2) and (c)(1)(G)(ii), which require state child support agencies in cases in which there is an arrearage to establish procedures to secure assets to satisfy any current support obligation and the arrearage by attaching and seizing assets of the obligor held in financial institutions; 42 U.S.C. 666(a)(17)(A), which requires state child support agencies to establish procedures under which the state child support agencies shall enter into agreements with financial institutions doing business in the State to develop and operate, in coordination with financial institutions, and the Federal Parent Locator Service (in the case of financial institutions doing business in two or more States), a data match system, using automated data exchanges to the maximum extent feasible, in which a financial institution is required to quarterly provide information pertaining to a noncustodial parent owing past-due support who maintains an account at the institution and, in response to a notice of lien or levy, encumber or surrender, assets held; 42 U.S.C. 652(a)(7), which requires OCSE to provide technical assistance to state child support enforcement agencies to help them establish effective systems for collecting child and spousal support; and, 45 CFR 303.7(a)(5), which requires state child support agencies to transmit requests for information and provide requested information electronically to the greatest extent possible. To facilitate this requirement for states, OCSE developed the *FAST* Levy system that supports the electronic exchange of lien and levy information between child support agencies and financial institutions.

Respondents: Multistate Financial Institutions and State Child Support Agencies

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Financial Data Match Result File-Portal	194	4	0.5	39
Election Form	30	1	0.5	15
FAST-Levy Response Withhold Record Specifications: Financial Institutions	3	1	1716	5148
FAST-Levy Request Withhold Record Specifications: State Child Support Agencies	4	1	1610	6440

Estimated Total Annual Burden Hours: 11,642.

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2017–01649 Filed 1–24–17; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Ryan White HIV/AIDS Program Core Medical Services Waiver Application Requirements

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, HRSA has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

DATES: Comments on this ICR should be received no later than February 24, 2017.

ADDRESSES: Submit your comments, including the Information Collection Request Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference, in compliance with Section 3506(c)(2)(A), the Paperwork Reduction Act of 1995.

Information Collection Request Title: Ryan White HIV/AIDS Program Core Medical Services Waiver Application Requirements.

OMB No. 0915–0307—Extension.

Abstract: Title XXVI of the Public Health Service (PHS) Act, as amended by the Ryan White HIV/AIDS Treatment Extension Act of 2009 (Ryan White HIV/AIDS Program), Part A section 2604(c), Part B section 2612(b), and Part C section 2651(c), requires that grantees expend 75 percent of Parts A, B, and C funds on core medical services, including antiretroviral drugs for individuals with HIV, identified and eligible under the legislation. For grantees under Parts A, B, and C to be exempted from the 75 percent core medical services requirement, they must request and receive a waiver from HRSA, as required in the Act.

On October 25, 2013, HRSA published revised standards for core medical services waiver requests in the **Federal Register** (78 FR 63990). These revised standards will allow grant recipients flexibility to adjust resource allocation based on the service mix needed to reach health outcomes related to retention and viral suppression. These standards ensure that grantees receiving waivers demonstrate the availability of core medical services, including antiretroviral drugs, for persons with HIV served under Title XXVI of the PHS Act. The core medical services waiver uniform standard and waiver request process will apply to Ryan White HIV/AIDS Program Grant Awards under Parts A, B, and C of Title XXVI of the PHS Act. Core medical services waivers will be effective for a 1-year period that is consistent with the grant recipients award period. Grant recipients may submit a waiver request before the annual grant application, with the application, or up to four months after the grant recipient award has been made.

Need and Proposed Use of the Information: HRSA uses the documentation submitted in core medical services waiver requests to determine if the applicant/grantee meets the statutory requirements for waiver eligibility including: (1) No waiting lists for AIDS Drug Assistance Program (ADAP) services; and (2) evidence of core medical services availability within the grant recipient's jurisdiction, state, or service area to all individuals with HIV identified and eligible under Title XXVI of the PHS Act. See sections 2604(c)(2), 2612(b)(2), and 2651(c)(2) of the PHS Act.

Likely Respondents: Ryan White HIV/AIDS Program Part A, B, and C grant recipients.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Core Medical Services Waiver Request	20	1	20	5.5	110
Total	20		20		110

Jason E. Bennett,

Director, Division of the Executive Secretariat.

[FR Doc. 2017–01662 Filed 1–24–17; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Advisory Board, February 15, 2017, 1:00 p.m. to February 15, 2017, 3:00 p.m., National Cancer Institute Shady Grove, 9609 Medical Center Drive, Rockville, MD 20850 which was published in the **Federal Register** on January 9, 2017, 81 FR 4365.

This meeting notice is amended to add an additional open session agenda

item titled ''Proposed Organizational Change: Center for Cancer Training''. The meeting is partially closed to the public.

Dated: January 18, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–01573 Filed 1–24–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Cardiac Contractility, Hypertrophy, and Failure Study Section, February 06, 2017, 8:00 a.m. to February 7, 2017, 4:00 p.m., Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015 which was published in the **Federal Register** on January 11, 2017, 82 FR 3346.

This meeting will now be held at Ritz-Carlton Pentagon City, 1250 South Hayes Street, Arlington, VA 22202. The meeting date and time remain the same. The meeting is closed to the public.

Dated: January 18, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–01572 Filed 1–24–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Advisory Environmental Health Sciences Council, February 14, 2017, 08:30 a.m. to February 15, 2017, 10:00 a.m., National Institute of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709 which was published in the **Federal Register** on January 10, 2017, 82 FR 3014.

This notice is to amend the date of the closed session and to add an additional open session date. The closed session will be held on February 14, 2017 from 8:30 a.m. to 10:15 a.m. The open session will now be held on February 14, 2017 from 10:30 a.m. to 4:00 p.m. and on February 15, 2017 from 8:30 a.m. to 10:30 a.m.

The meeting is partially Closed to the public.

Dated: January 18, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–01574 Filed 1–24–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Statement of Delegation of Authority

Notice is hereby given that I have delegated to the Director, National Institutes of Health (NIH), the authorities vested in the Secretary of Health and Human Services under Section 2041 of the 21st Century Cures Act (Pub. L. 114–255), as amended, to establish a task force, in accordance with the Federal Advisory Committee Act (5 U.S.C. App.), to be known as the ''Task Force on Research Specific to Pregnant Women and Lactating Women''.

These authorities may be redelegated. Exercise of this authority shall be in accordance with established policies, procedures, guidelines, and regulations as prescribed by the Secretary. The Secretary retains the authority to submit reports to Congress, promulgate regulations, appoint members to the Task Force, and to receive advice and guidance from the Task Force, pursuant to section 2041(a)(2).

Dated: January 18, 2017.

Sylvia M. Burwell,

Secretary.

[FR Doc. 2017–01681 Filed 1–24–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[DHS Docket No. DHS–2017–0004]

Eliminating Exception to Expedited Removal Authority for Cuban Nationals Encountered in the United States or Arriving by Sea

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice; correction.

SUMMARY: The Department of Homeland Security (DHS) published a notice in the **Federal Register** of January 17, 2017, eliminating an exception to expedited removal authority for Cuban nationals encountered in the United States or arriving by sea. The notice contained incorrect contact information under two captions. This correction fixes the errors.

FOR FURTHER INFORMATION CONTACT: David Cloe, DHS Office of Policy, 202–447–4647, *David.Cloe@HQ.DHS.GOV.*

Correction

In FR Doc. 2017–00914, appearing on page 4903 in the **Federal Register** of Tuesday, January 17, 2017, the following corrections are made:

1. In the first column, correct the ''Mail or Hand Delivery/Courier'' bullet to read:

Mail or Hand Delivery/Courier: Please submit all written comments (including and CD–ROM submissions) to David Cloe, DHS Office of Policy, 245 Murray Lane SW., Mail Stop 0445, Washington, DC 20528.

2. In the first column, correct the **FOR FURTHER INFORMATION CONTACT** caption to read:

David Cloe, DHS Office of Policy, 202–447–4647, *David.Cloe@HQ.DHS.GOV.*

Signed: at Washington, DC, this 18th of January 2017.

David Shahoulian,

Deputy General Counsel.

[FR Doc. 2017–01664 Filed 1–24–17; 8:45 am]

BILLING CODE 9110–9M–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–995]

Certain Electrical Conductor Composite Cores and Components Thereof Notice of Commission Determination Not To Review an Initial Determination Granting Unopposed Motion To Terminate the Investigation as to Remaining Respondent; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (''ALJ'') initial determination (''ID'') (Order No. 11) granting an unopposed motion to terminate the investigation as to the only remaining respondent, Shenzhen Zm Hesheng Power Development Co., Ltd. of Shenzhen, China (''Shenzhen Zm

Hesheng'') based upon good cause. This terminates the investigation.

FOR FURTHER INFORMATION CONTACT: Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–3042. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*https://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on May 16, 2016, based on a complaint filed by CTC Global Corporation, of Irvine, California (''CTC Global''). 81 FR 30340–41 (May 16, 2016). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain electrical conductor composite cores and components thereof by reason of infringement of certain claims of U.S. Patent No. 7,211,319 and U.S. Patent No. 7,368,162. The notice of investigation named as respondents, Shenzhen Zm Hesheng and Mercury Cable & Energy, Inc. of San Juan Capistrano, California (''Mercury''). The Office of Unfair Import Investigations is a party to the investigation.

On September 23, 2016, the ALJ issued an ID (Order No. 9) granting an unopposed motion to terminate the investigation as to Mercury based upon consent based upon a consent order stipulation and consent order. The Commission determined not to review. Comm'n Notice of Non-Review and Issuance of Consent Order (Oct. 21, 2016).

On December 13, 2016, CTC Global filed a motion to terminate the investigation as to Shenzhen Zm Hesheng, the only remaining respondent. CTC Global stated that despite repeated attempts, it has been unable to serve the complaint on Shenzhen Zm Hesheng and that Shenzhen Zm Hesheng has not filed an answer or made any appearance in this investigation. On December 21, 2016, the Commission investigative attorney filed a response in support of the motion. No other responses to the motion were filed.

On December 28, 2016, the ALJ issued the subject ID (Order No. 11) granting the motion. The ALJ noted that Commission Rules permit terminating the investigation as to any respondent based upon good cause (19 CFR 210.21(a)(1)) and found that good cause exists to grant the motion because service was unsuccessful. ID at 2 (citing *Certain Protective Cases and Components Thereof,* Inv. No. 337–TA–780, Order No. 23 (Dec. 30, 2011) (finding good cause to terminate investigation as to respondents after service was unsuccessful), *not rev'd by* Comm'n Notice (Jan. 24, 2012). None of the parties petitioned for review of the ID.

The Commission has determined not to review the ID and to terminate the investigation.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: January 19, 2017.

Katherine M. Hiner,

Acting Supervisory Attorney.

[FR Doc. 2017–01699 Filed 1–24–17; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Gentry Reeves Dunlop, M.D.; Decision and Order

On September 20, 2016, the Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Gentry R. Dunlop, M.D. (Registrant), of Aurora, Colorado. The Show Cause Order proposed the revocation of Registrant's DEA Certificate of Registration on the ground that he does not have authority to dispense controlled substances in Colorado, the State in which he is registered with the DEA. Order to Show Cause, at 1 (citing 21 U.S.C. §§ 823(f) and 824(a)(3)).

As grounds for the action, the Show Cause Order alleged that Registrant is the holder of Certificate of Registration BD0874378, pursuant to which he is authorized to dispense controlled substances in schedules II through V as a practitioner, at the registered address of 4745 South Helena Way, Aurora, Colorado. *Id.* The Order alleged that Registrant's registration does not expire until June 30, 2019. *Id.*

The Show Cause Order also alleged that effective on July 19, 2016, the Colorado Medical Board issued an order ''which suspended [Registrant's] authority to practice medicine'' and that Registrant is ''without authority to [dispense] controlled substances in Colorado, the [S]tate in which [he is] registered with the'' Agency. *Id.* The Order then asserted that as a consequence of the Board's action, ''DEA must revoke your [registration] based upon your lack of authority to handle controlled substances in the State of Colorado.'' *Id.* (citing 21 U.S.C. §§ 802(21), 823(f) and 824(a)(3)).

The Show Cause Order also notified Registrant of his right to request a hearing on the allegations or to submit a written statement in lieu of a hearing, the procedure for electing either option, and the consequence for failing to elect either option. *Id.* at 2 (citing 21 CFR 1301.43). In addition, the Show Cause Order notified Registrant of his right to submit a Corrective Action Plan. *Id.* at 2–3.

On or about September 21, 2016, a Diversion Investigator (DI) with the Denver Division Office mailed the Show Cause Order to Registrant via Certified Mail addressed to him at his registered address of 4745 South Helena Way, Aurora, Colorado. GX 3, at 1–2 (Declaration of DI). According to the DI, using the Postal Service's tracking system, she determined that the Show Cause Order was delivered to Registrant's address on September 28, 2016; the DI also averred that on or about September 30, 2016, she received back the return receipt card. *Id.* at 2.

On November 7, 2016, the Government forwarded its Request for Final Agency Action (RFAA) and an evidentiary record to my Office. Therein, the Government represents that it ''has not received a request for hearing or any other reply from Registrant.'' RFAA, at 2.

Based on the Government's representation that more than 30 days have now passed since the date of service of the Show Cause Order and that Registrant has not submitted a request for a hearing or any other reply, I find that Registrant has waived his right to a hearing or to submit a written statement in lieu of a hearing. 21 CFR 1301.43(d). I therefore issue this Decision and Final Order based on

relevant evidence contained in the record submitted by the Government. 21 CFR 1301.43(d) & (e). I make the following findings of fact. *Id.* Sec. 1301.43(e).

Findings of Fact

Registrant is the holder of DEA Certificate of Registration BD0874378, pursuant to which he is authorized to dispense controlled substances in Schedules II through V as a practitioner, at the registered address of 4745 S. Helena Way, Aurora, Colorado. GX 2. His registration does not expire until June 30, 2019. *Id.*

Registrant is also the holder of a license to practice medicine (DR–28729) issued by the Colorado Medical Board (the Board). GX 4, at 1. However, on July 19, 2016, the Board issued Registrant an Order of Suspension effective the same day which ''shall remain in effect until resolution of this matter.'' [1] *Id.* at 2. As Registrant did not respond to the Show Cause Order, let alone submit any evidence to show that his state license has been reinstated, I find that he does not possess authority to dispense controlled substances under the laws of Colorado, the State in which he is registered with the Agency.

Discussion

Pursuant to 21 U.S.C. § 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of Title 21, ''upon a finding that the registrant . . . has had his State license . . . suspended [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' Moreover, with respect to a practitioner, DEA has long held that the possession of authority to dispense controlled substances under the laws of the State in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a registration. *See, e.g., James L. Hooper,* 76 FR 71371 (2011) (collecting cases), *pet. for rev. denied,* 481 Fed. Appx. 826 (4th Cir. 2012); *see also Frederick Marsh Blanton,* 43 FR 27616 (1978) (''State authorization to dispense or otherwise handle controlled substances is a prerequisite to the issuance and maintenance of a Federal controlled substances registration.'').

This rule derives from the text of two provisions of the CSA. First, Congress defined ''the term 'practitioner' [to] mean[] a . . . physician . . . or other person licensed, registered or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. § 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. § 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the Act, DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the State in which he practices medicine. *See, e.g., Calvin Ramsey,* 76 FR 20034, 20036 (2011); *Sheran Arden Yeates, M.D.,* 71 FR 39130, 39131 (2006); *Dominick A. Ricci,* 58 FR 51104, 51105 (1993); *Bobby Watts,* 53 FR 11919, 11920 (1988); *see also Frederick Marsh Blanton,* 43 FR 27616 (1978).

Moreover, because ''the controlling question'' in a proceeding brought under 21 U.S.C. § 824(a)(3) is whether the holder of a DEA registration ''is currently authorized to handle controlled substances in the [S]tate,'' *Hooper,* 76 FR at 71371 (quoting *Anne Lazar Thorn,* 62 FR 12847, 12848 (1997)), the Agency has also long held that revocation is warranted even where a practitioner has lost his state authority by virtue of the State's use of summary process and the State has yet to provide a hearing to challenge the suspension. *Bourne Pharmacy,* 72 FR 18273, 18274 (2007); *Wingfield Drugs,* 52 FR 27070, 27071 (1987). Thus, it is of no consequence that the Colorado Medical Board has employed summary process in suspending Registrant's state license. What is consequential is that Registrant is no longer currently authorized to dispense controlled substances in the State in which he is registered. I will therefore order that his registration be revoked.

Order

Pursuant to the authority vested in me by 21 U.S.C. § 824(a), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration BD0874378, issued to Gentry Reeves Dunlop, M.D., be, and it hereby is, revoked. Pursuant to the authority vested in me by 21 U.S.C. § 823(f), I further order that any pending application of Gentry Reeves Dunlop, M.D., to renew or modify his registration, be, and it hereby is, denied. This Order is effective immediately.[2]

Date: January 17, 2017.

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2017–01690 Filed 1–24–17; 8:45 am]

BILLING CODE 4410–09–P

[1] As the basis for its order, the Board found that Registrant signed several hundred certifications recommending the medical use of marijuana and authorizing the possession of increased plant counts, and that these certifications were ''for conditions other than cancer.'' GX 4, at 1. The Board further found that ''signing the . . . certifications . . . in the absence of cancer diagnosis and treatment falls below generally accepted standards of medical practice and lacks medical necessity'' and was ''unprofessional conduct'' in violation of the Colorado Revised Statute § 12–36–117(l)(p) and (mm). *Id.* Based on its review of information relevant to three investigations pertaining to Registrant, the Board found ''reasonable grounds to believe that the public health, safety or welfare imperatively requires emergency action and/or that [Registrant] was guilty of a deliberate and willful violation of law.'' *Id.* at 1–2.

[2] For the same reasons that led the Colorado Board to summarily suspend Registrant's medical license, I find that the public interest necessitates that this Order be effective immediately. 21 CFR 1316.67.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Organix, 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 1301.33(a) on or before March 27, 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 her 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 September 14, 2016, Organix, Inc., 240 Salem Street, Woburn, Massachusetts 01801, applied to be registered as a bulk manufacturer of the following basic classes controlled substances:

Controlled substance	Drug code	Schedule
Gamma Hydroxybutyric Acid.	2010	I
Lysergic acid diethylamide.	7315	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
Psilocybin	7437	I
Psilocyn	7438	I
Heroin	9200	I
Morphine	9300	II

The company plans to manufacture reference standards for distribution to its research and forensics customers. In reference to drug code 7360 (marihuana) and 7370 (THC) the company plans to manufacture these drugs as synthetic. No other activities for these drug codes are authorized for this registration.

Dated: December 22, 2016.

Louis J. Milione,

Assistant Administrator.

[FR Doc. 2017–01582 Filed 1–24–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Donald W. Lamoureaux, M.D.; Decision and Order

On September 16, 2016, the Assistant Administrator, Division of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Donald W. Lamoureaux, M.D. (Registrant), of Horseshoe Bend, Arkansas. The Show Cause Order proposed the revocation of his DEA Certificate of Registration, pursuant to which he is authorized to dispense controlled substances in schedules II through V, as a practitioner, on the ground that he ''do[es] not have authority to handle controlled substances in Arkansas, the [S]tate in which he is registered with the DEA.'' Show Cause Order, at 1.

As grounds for the proceeding, the Show Cause Order alleged that Registrant is registered with the DEA as a practitioner authorized to dispense controlled substances in schedules II through V, pursuant to Certificate of Registration No. FL2413297, at the registered address of 707 Third Street, Horseshoe Bend, Arkansas. *Id.* The Order also alleged that his registration does not expire until March 31, 2017. *Id.*

The Show Cause Order then alleged that Registrant's Arkansas medical license expired on April 30, 2015, and that he is currently without authority to dispense controlled substances in Arkansas, the State in which he is registered with the DEA. *Id.* at 1–2. Based upon Registrant's lack of authority to handle controlled substances in the State of Arkansas, the Government asserts that his registration is subject to revocation. *Id.* at 2 (*citing* 21 U.S.C. §§ 802(21), 823(f) and 824(a)(3)).

The Show Cause Order also notified Registrant of his right to request a hearing on the allegations or to submit a written statement in lieu of a hearing, the procedures for electing either option, and the consequence for failing to elect either option. *Id.* at 2 (*citing* 21 CFR 1301.43). In addition, the Order notified Registrant of his right to submit a Corrective Action Plan. *Id.* at 2–3.

On September 19, 2016, the Show Cause Order was sent via certified mail to Registrant at his current residence, the Federal Correctional Institution, Butner, North Carolina, 27509. Government Request for Final Agency Action (RFAA), Appendix 4, Declaration, at 1. As evidenced by a copy of the signed return receipt card, service was accomplished on September 22, 2016. *Id.; See also* Appendix 4, at 3–4.

On November 1, 2016, the Government forwarded to my Office a Request for Final Agency Action and an evidentiary record. In its Request, the Government represents that it has not received a request for a hearing or any other reply from Registrant. RFAA, at 2. The Government thus seeks the revocation of Registrant's Registration on the ground that he lacks state authority. *Id.* at 4.

Based upon the Government's representation and the record, I find that more than 30 days have now passed since the date of service of the Show Cause Order, and neither Registrant, nor anyone purporting to represent him, has requested a hearing or submitted a written statement in lieu of a hearing. I therefore find that Registrant has waived his right to a hearing or to submit a written statement in lieu of a hearing and issue this Decision and Final Order based on relevant evidence contained in the record submitted by the Government. 21 CFR 1301.43(d) & (e). I make the following findings of fact.

Findings

Respondent is the holder of practitioner's registration FL2413297, pursuant to which he is authorized to dispense controlled substances in schedules II through V at the registered address of 707 Third Street, Horseshoe Bend, Arkansas; this registration does not expire until March 31, 2017. Declaration of the Diversion Investigator (DI), at 1. According to the DI, Registrant's license to practice medicine in Arkansas lapsed on April 30, 2015, and he currently has no authority to practice medicine in that State. *Id.* at 1.

As further support for the action, the DI obtained, and the Government submitted, a license verification from the Arkansas State Medical Board along with a Certification from the Board's Executive Secretary that the license verification was true and correct as of September 15, 2016. Appendix 2, at 1; Appendix 3, at 1. This document shows that as of September 14, 2016, the Board listed the expiration date of Registrant's medical license as ''April 30, 2015'' and the status of his license as ''Inactive''; it also includes the notation: ''License Category: Felony Conviction.'' Appendix 3, at 2. Also, the document contains the following Board History notes, which include that:

1. On February 9, 2015, the Board issued an Emergency Order of Suspension to Registrant;

2. On April 10, 2015, the Board voted ''to continue the disciplinary hearing until after [Registrant's] [] trial date'';

3. On July 2, 2015, the Board voted ''to block [Registrant's] access to renew his license should he wish to renew''; and

4. On December 3, 2015, Registrant's ''medical license lapsed subsequent to the felony criminal conviction.''

Appendix 3, at 4–5. As Registrant did not respond to the Show Cause Order, let alone submit any evidence to show that his state license has been reinstated, I find that he does not possess authority to dispense controlled substances under the laws of Arkansas, the State in which he is registered with the Agency.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of Title 21, ''upon a finding that the registrant . . . has had his State license . . . suspended [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' With respect to a practitioner, DEA has repeatedly held that the possession of authority to dispense controlled

substances under the laws of the State in which he engages in professional practice is a fundamental condition for obtaining and maintaining a registration. *See, e.g., James L. Hooper,* 76 FR 71371 (2011), *pet. for rev. denied,* 481 Fed Appx. 826 (4th Cir. 2012); *see also Frederick Marsh Blanton,* 43 FR 27616 (1978) (''State authorization to dispense or otherwise handle controlled substances is a prerequisite to the issuance and maintenance of a Federal controlled substances registration.'').

This rule derives from the text of two provisions of the CSA. First, Congress defined ''the term 'practitioner' [to] mean[] a . . . physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. § 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. § 823(f).

Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the Act, DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the State in which he engages in professional practice. *See, e.g., Calvin Ramsey,* 76 FR 20034, 20036 (2011); *Sheran Arden Yeates, M.D.,* 71 FR 39130, 39131 (2006); *Dominick A. Ricci,* 58 FR 51104, 51105 (1993); *Bobby Watts,* 53 FR 11919, 11920 (1988); *Blanton,* 43 FR at 27617.

Accordingly, because Registrant currently lacks authority to dispense controlled substances in Arkansas, the State in which he holds his DEA registration, I will order that his registration be revoked.

Order

Pursuant to the authority vested in me by 21 U.S.C. §§ 823(f) and 824(a)(3), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration FL2413297 issued to Donald W. Lamoureaux, M.D., be, and it hereby is, revoked. I further order that any pending application of Donald W. Lamoureaux, M.D., to renew or modify his registration, be, and it hereby is, denied. This Order is effective February 24, 2017.

Dated: January 17, 2017.

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2017–01688 Filed 1–24–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the System Unit Resource Protection Act

On January 19, 2017, the Department of Justice lodged a proposed consent decree with the United States District Court for the Northern District of California in *United States* v. *Tomales Bay Oyster Company, LLC,* Civil Action No. 3:17–cv–00255.

The United States filed a complaint under the System Unit Resource Protection Act, 54 U.S.C. 100722(a), and California trespass law seeking damages and response costs stemming from the Defendant's alleged use of a parcel of land owned by the United States and administered by the United States National Park Service as part of the Golden Gate National Recreation Area. The United States simultaneously lodged a consent decree which would settle these claims in return for a payment of $280,000. From this sum, the Department of Justice will deposit $267,742 in the Department of the Interior's Natural Resource Damage Assessment and Restoration Fund to pay for response and natural resource damage assessment costs incurred by the United States and natural resource restoration projects related to this incident. The Department of Justice will deposit the remaining $12,258 in the United States Treasury.

The publication of this notice opens a period for public comment on the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Tomales Bay Oyster Company, LLC,* D.J. Ref. No. 90–5–1–1–11544. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed consent decree may be examined and downloaded at this Justice Department Web site: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the proposed consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $4.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Henry Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2017–01698 Filed 1–24–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act

On January 17, 2017, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Eastern District of Texas in the lawsuit entitled *United States and the State of Texas* v. *City of Tyler, Texas,* Civil Action No. 6:17–cv–00029.

The United States of America and the State of Texas (collectively, ''Plaintiffs'') filed a complaint against the City of Tyler, Texas, (''Defendant'') alleging that Defendant violated and continues to violate Section 301 of the Clean Water Act (''CWA''), 33 U.S.C. 1311, and Section 26.121(a)(1) of the Texas Water Code (''TWC'') by discharging raw sewage from the City of Tyler's wastewater collection and treatment systems (''WCTS'') into or adjacent to local waterways. The complaint further alleges that Defendant failed to comply with the terms and conditions of its two Texas Pollutant Discharge Elimination System permits, issued pursuant to Section 402 of the CWA, 33 U.S.C. 1342, and in violation of Section 7.101 of the TWC, due to operational failures, Defendant's failure to issue all necessary reports required by its permits, and Defendant's failure to adequately safeguard against discharges during power outages. The complaint alleges violations have been ongoing since 2005. The Plaintiffs seek injunctive relief, pursuant to Section 309(b) of the CWA, 33 U.S.C. 1319(b), and Section 7.032 of the TWC, and civil penalties, pursuant to Section 309(d) of the CWA,

33 U.S.C. 1321(b), and Section 7.101 of the TWC.

Under the proposed settlement, Defendant will perform injunctive relief aimed at upgrading and advancing the physical and operational state of its WCTS. Specifically, Defendant must improve employee training and the daily operation of its WCTS; overhaul its inspection forms and recordkeeping procedures; assess the condition of the entire WCTS and remediate certain defects identified; study WCTS capacity to identify potential capacity constraints in the system and address field-verified confirmed capacity constraints; install adequate backup power to manage untreated wastewater in the event of electrical failures; and identify and permanently remove certain discovered locations that could divert untreated wastewater from the WCTS to waters or otherwise into the environment. The proposed Consent Decree also requires Defendant to pay a $563,000 civil penalty to the United States and Texas, to be split equally by Plaintiffs, and to pay the State of Texas an additional $30,000 in attorney's fees.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and the State of Texas* v. *City of Tyler, Texas,* D.J. Ref. No. 90–5–1–1–09767. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed Consent Decree may be examined and downloaded at this Justice Department Web site: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the proposed Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $36.50 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy requested without the exhibits and signature pages, the cost is $21.25.

Thomas P. Carroll,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2017–01571 Filed 1–24–17; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Stipulation of Settlement and Order Under the Clean Air Act

On January 18, 2017, a proposed Stipulation of Settlement and Order was lodged with the United States District Court for the Southern District of Texas in the lawsuit entitled *United States* v. *Tauber Oil Company,* Civil Action No. 4:17–cv–00153.

The United States filed this lawsuit against Tauber Oil Company (''Tauber'') alleging violations of Section 211(b) of the Clean Air Act, 42 U.S.C. 7545(b), and the regulations promulgated thereunder. The Complaint contends that Tauber sold approximately 1.9 million gallons of a product called ''Mixed Alcohol'' for use as a fuel additive without complying with the Clean Air Act's registration and ''substantially similar'' requirements. The proposed Stipulation of Settlement and Order requires Tauber to pay a civil penalty of $700,000.

The publication of this notice opens a period for public comment on the Stipulation of Settlement and Order. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Tauber Oil Company,* D.J. Ref. No. 90–5–2–1–11634. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail in the following manner:

To submit comments:	Send them to:
By e-mail	*pubcomment-ees.enrd@usdoj.gov*
By mail	*Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.*

During the public comment period, the Stipulation of Settlement and Order may be examined and downloaded at this Justice Department Web site: *https://www.justice.gov/enrd/Consent_Decrees.* We will provide a paper copy upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $2.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Robert Brook,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2017–01678 Filed 1–24–17; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act and the Comprehensive Environmental Response, Compensation, and Liability Act

On January 17, 2017, the Department of Justice lodged a proposed consent decree with the United States District Court for the Northern District of Ohio in the lawsuit entitled *United States* v. *S.H. Bell Company,* Civil Action No. 4:17–cv–131.

The United States filed this lawsuit under the Clean Air Act and the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA,'' also known as the Superfund statute). The United States' complaint names S.H. Bell Company as defendant. The complaint seeks injunctive relief under the Clean Air Act and CERCLA to address manganese emissions from S.H. Bell's plant that spans across the Ohio-Pennsylvania border in East Liverpool, Ohio and Ohioville, Pennsylvania. The consent decree requires several measures to provide both immediate and long-term reductions in fugitive manganese emissions. These safeguards include (i) fenceline monitoring with EPA-approved monitors and required steps to investigate and, if needed, take corrective action if emissions exceed specified trigger levels; (ii) a tracking system for manganese materials and video recordings of certain facility operations to help the company and regulators determine the source of any manganese emissions detected in the future; and (iii) implementation of identified fugitive dust control measures.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to

United States v. *S.H. Bell Company,* D.J. Ref. No. 90–5–2–1–11688/1. All comments must be submitted no later than 30 days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department Web site: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $11.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Randall M. Stone,

Acting Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2017–01647 Filed 1–24–17; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

[OMB Number 1110–0056]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Previously Approved Collection

AGENCY: Justice Management Division, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice, Justice Management Division has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with established review procedures of the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for an additional 30 days until February 24, 2017.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Lubna Shirazi, Office of Information Policy, U.S. Department of Justice, Suite 11050, 1425 New York Avenue NW., Washington, DC 20530.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. Type of Information Collection: Extension of a currently approved collection.

2. The Title of the Form/Collection: Certification of Identity.

3. The agency form number, if any, and the applicable component of the Department sponsoring the collection: Form DOJ–361. Facilities and Administrative Services Staff, Justice Management Division, U.S. Department of Justice.

4. Affected public who will be asked or required to respond, as well as a brief abstract: Primary: American Citizens. Other: Federal Government. The information collection will be used by the Department to identify individuals requesting certain records under the Privacy Act. Without this form an individual cannot obtain the information requested.

5. An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: It is estimated that 70,000 respondents will complete each form within approximately 30 minutes.

6. An estimate of the total public burden (in hours) associated with the collection: There are an estimated total of 35,000 annual burden hours associated with this collection.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: January 19, 2017.

Melody Braswell,

Department Clearance Officer for PRA.

[FR Doc. 2017–01631 Filed 1–24–17; 8:45 am]

BILLING CODE 4410–02–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice and request for comment.

SUMMARY: NCUA, as part of a continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the following extensions of currently approved collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments should be received on or before March 27, 2017 to be assured consideration.

ADDRESSES: Interested persons are invited to submit written comments on the information collection to Dawn Wolfgang, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314, Suite 5067; Fax No. 703–519–8579; or Email at *PRAComments@NCUA.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the address above.

SUPPLEMENTARY INFORMATION: NCUA, as part of a continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the following extensions of currently approved collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35).

OMB Number: 3133–0135.

Title: Authorization Agreement for Electronic Funds Transfer Payment.

Abstract: The NCUA is required under the Debt Collection Improvement Act of 1996 to issue payments to credit unions and all other entities electronically. The ''Authorization Agreement for Electronic Funds Transfer Payment'' form is used to maintain up-to-date and accurate electronic payment data for new and existing credit unions. NCUA will use the information to update its vendor (credit union) electronic routing and transit data database to enable transmittal of funds and payments. If this information is not collected, NCUA will not be able to make payment electronically through the Automated Clearing House (ACH) and will be in non-compliance with the Debt Collection Improvement Act of 1996.

Type of Review: Extension of a currently approved collection.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Number of Respondents: 100.

Estimated Annual Frequency: 1.

Estimated Number Responses per Respondent: 100.

Estimated Burden Hours per Response: 15 minutes.

Estimated Total Annual Burden Hours: 25.

The number of respondents has been revised to reflect only submissions made by new or FCU requesting changes to their account information.

OMB Number: 3133–0166.

Title: Home Mortgage Disclosure (Regulation C), 12 CFR 1003.

Abstract: HMDA was enacted in 1975 and requires most mortgage lenders lending in metropolitan areas to collect data about their housing-related lending activity. Historically, HMDA has been implemented by the Board of Governors of the Federal Reserve System's (FRB) Regulation C, 12 CFR part 203. Congress has periodically modified the law, and FRB has routinely updated Regulation C. The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 transferred FRB's rulemaking authority for HMDA to CFPB.

Regulation C, 12 CFR part 1003, requires financial institutions that meet certain thresholds to report data annually about: Each application or loan, including the application date; the action taken and the date of that action; the loan amount; the loan type (for example, government guaranteed or not) and purpose (for example, home purchase); and, if the loan is sold, the type of purchaser; Each applicant or borrower, including ethnicity, race, sex, and income; and Each property, including location and occupancy status.

A covered lender generally must update information quarterly—all reportable transaction must be recorded within 30 calendar days after the end of the calendar quarter in which final action is taken on a loan application register (LAR)—and must submit the completed LAR annually to the appropriate Federal agency by March 1 of the year following the year covered by the LAR. Institutions that submit incorrect information may be required to correct and resubmit the information. The Federal Financial Institutions Examination Council (FFIEC) then prepares a disclosure statement from data submitted by the financial institutions, and provides the disclosure statement to the financial institution. Within three business days of receiving its statement, the financial institution must make a copy available at its home office. In addition, within ten business days of receiving its disclosure statement, the financial institution must either: (1) Make the disclosure statement available in at least one branch office in every Metropolitan Statistical Area (MSA) and Metropolitan Division (Division) where it has an office or (2) post a notice in at least one branch office per MSA and Division where it has an office stating that the disclosure statement is available upon written request. A covered lender must make each public disclosure statement available to the public for five years.

Each financial institution must retain its completed LAR for three years and during that period it must make its LAR available to the public after redacting certain information to protect the privacy of its applicants and borrowers.

Type of Review: Extension of a currently approved collection.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Number of Respondents: 1,967.

Estimated Number of Loan Applications/Responses: 894,500.

Estimated Burden Hours per Response: 5 minutes.

Estimated Total Annual Burden Hours: 74,542.

The number of federally insured credit union respondents filing HMDA LAR and the total number of reportable HMDA loans have been adjusted to reflect the numbers obtained for calendar years 2012 and 2013.

Request for Comments: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit comments concerning: (a) Whether the collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of the information on the respondents, including the use of automated collection techniques or other forms of information technology.

By Gerard Poliquin, Secretary of the Board, the National Credit Union Administration, on January 19, 2017.

Dated: January 19, 2017.

Dawn D. Wolfgang,

NCUA PRA Clearance Officer.

[FR Doc. 2017–01658 Filed 1–24–17; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request; Leasing

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice and request for comment.

SUMMARY: The National Credit Union Administration (NCUA), as part of a continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the following extension request of currently approved collection, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments should be received on or before March 27, 2017 to be assured consideration.

ADDRESSES: Interested persons are invited to submit written comments on the information collections to Dawn Wolfgang, National Credit Union Administration, 1775 Duke Street, Suite 5067, Alexandria, Virginia 22314; Fax No. 703–519–8579; or Email at *PRAComments@NCUA.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the address above.

SUPPLEMENTARY INFORMATION:

OMB Number: 3133–0151.

Title: Leasing, 12 CFR part 714.

Abstract: Section 714.5 of NCUA's Regulations requires a federal credit

union engaged in leasing to obtain or have on file financial documentation demonstrating that the guarantor of an estimated residual value has the resources to meet the guarantee.

Estimated residual value is the projected future value of leased property at lease end. The accuracy of the estimated residual values used in a lease program is a fundamental element in the success or failure of a lease program. The higher the estimated residual values used by a federal credit union, the greater the potential for loss. To mitigate this risk, the leasing rule requires that if the amount of the estimated residual value relied on by the federal credit union to satisfy the full payout lease requirement exceeds 25 percent of the original cost of the leased property, the credit union must obtain a guarantee of the excess from a financially capable party.

If the guarantor cannot meet its guarantee, a federal credit union may suffer serious financial loss. Accordingly, it is important that a federal credit union documents that a guarantor has the financial resources and capability to meet the guarantee. If the guarantor is an insurance company, the federal credit union may satisfy this record keeping requirement by obtaining and maintaining information demonstrating that the insurance company has a rating equivalent to a B+ or better from a major rating company.

Type of Review: Extension of a previously approved collection.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated No. of Respondents: 68.

Estimated Annual Frequency: 5.

Estimated Annual No. of Responses: 340.

Estimated Burden Hours per Respondent: 2.

Estimated Total Annual Burden Hours: 680.

An adjustment is due to the increase in the number of credit unions that offer leasing products, resulting in an increase in burden.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit comments concerning: (a) Whether the collection of information is necessary for the proper execution of the function of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of the information on the respondents, including the use of automated collection techniques or other forms of information technology.

By Gerard Poliquin, Secretary of the Board, the National Credit Union Administration, on January 19, 2017.

Dawn D. Wolfgang,

NCUA PRA Clearance Officer.

[FR Doc. 2017–01646 Filed 1–24–17; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Submission for OMB Review; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice.

SUMMARY: The National Credit Union Administration (NCUA) will be submitting the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before February 24, 2017 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for NCUA, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) NCUA PRA Clearance Officer, 1775 Duke Street, Alexandria, VA 22314, Suite 5067, or email at *PRAComments@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission may be obtained by emailing *PRAComments@ncua.gov* or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

OMB Number: 3133–0176.

Title: Member Inspection of Credit Union Books, Records, and Minutes.

Abstract: Section 701.3 of NCUA's regulations establishes the circumstances and conditions under which Federal credit union (FCU) members may inspect and copy the FCU's books, records, and minutes of meetings. The collection of information requirements apply to FCU members seeking inspection and copying of the FCU's records and FCUs that receive such member requests. To obtain access to records, members are required to submit a petition to the FCU, stating a proper purpose for inspection and signed by at least one percent of the members, with a minimum of 20 and a maximum of 500 members. The FCU must permit inspection of relevant records if it receives such a petition.

The FCU uses the information in determining whether and upon what terms to provide records to members for inspection. The petition signatures collected by each FCU will be used by the FCU to verify the membership status of each petitioner.

Type of Review: Extension of a previously approved collection.

Affected Public: Individuals and Households; Private Sector: Not-for-profit institutions.

Estimated Total Annual Burden Hours: 360.

OMB Number: 3133–XXXX.

Title: Contractor's Diversity Profile.

Abstract: As part of NCUA's mission, the Office of Minority and Women Inclusion (OMWI) ''implements standards and procedures to ensure, to the maximum extent possible, the fair inclusion and utilization of minorities, women, and minority-owned and women-owned businesses in all business activities of the agency.''

In accordance with Section 342 of the Dodd-Frank Act that OMWIs ''include a written statement, in a form and with such content as the [OMWI] Director shall prescribe, that a contractor shall ensure, to the maximum extent possible, the fair inclusion of women and minorities in the workforce of the contractor and, as applicable, subcontractors,'' each new contract award whose dollar value exceeds $100,000 (NCUA's Simplified Acquisition Threshold) will include a Good Faith Effort (GFE) Certification. This certification is included in the solicitation package and returned to NCUA as part the contractor's proposal, with the understanding that the contractor maybe required to provide documentation in support of certification. As part of this compliance review, selected contractors will be sent a Contractors Diversity Profile to provide documentation outlined in the GFE certification to NCUA. The contractor would provide current information on their diversity strategy, policies, recruitment, planning and

outreach; and may be required to provide supporting documentation. The completed Profile is returned to NCUA 15 days after receipt by the contractor.

Type of Review: New collection.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 38.

By Gerard Poliquin, Secretary of the Board, the National Credit Union Administration, on January 19, 2017.

Dated: January 19, 2017.

Dawn D. Wolfgang,

NCUA PRA Clearance Officer.

[FR Doc. 2017–01654 Filed 1–24–17; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME AND DATE: 9:30 a.m., Tuesday, February 7, 2017.

PLACE: NTSB Conference Center, 429 L'Enfant Plaza SW., Washington, DC 20594.

STATUS: The one item is open to the public.

MATTERS TO BE CONSIDERED:

8620A *Railroad Accident Report*—BNSF Railway Train Derailment and Subsequent Train Collision, Release of Hazardous Materials, and Fire, Casselton, North Dakota (DCA14MR004)

NEWS MEDIA CONTACT: Telephone: (202) 314–6100.

The press and public may enter the NTSB Conference Center one hour prior to the meeting for set up and seating.

Individuals requesting specific accommodations should contact Rochelle Hall at (202) 314–6305 or by email at *Rochelle.Hall@ntsb.gov* by Wednesday, February 1, 2017.

The public may view the meeting via a live or archived webcast by accessing a link under ''News & Events'' on the NTSB home page at *www.ntsb.gov*.

Schedule updates, including weather-related cancellations, are also available at *www.ntsb.gov*.

FOR MORE INFORMATION CONTACT: Candi Bing at (202) 314–6403 or by email at *bingc@ntsb.gov*.

FOR MEDIA INFORMATION CONTACT: Eric Weiss at (202) 314–6100 or by email at *eric.weiss@ntsb.gov*.

Dated: January 23, 2017.

Candi R. Bing,

Federal Register Liaison Officer.

[FR Doc. 2017–01758 Filed 1–23–17; 11:15 am]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–025 and 52–026; NRC–2008–0252]

Southern Nuclear Operating Company, Inc., Vogtle Electric Generating Plant, Units 3 and 4; Automatic Depressurization System Stage 2, 3 & 4 Valve Flow Area Changes and Clarifications

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption and combined license amendment; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is granting an exemption to allow a departure from the certification information of Tier 1 of the generic design control document (DCD) and is issuing License Amendment No. 62 to Combined Licenses (COLs), NPF–91 and NPF–92. The COLs were issued to Southern Nuclear Operating Company, Inc., and Georgia Power Company, Oglethorpe Power Corporation, MEAG Power SPVM, LLC, MEAG Power SPVJ, LLC, MEAG Power SPVP, LLC, Authority of Georgia, and the City of Dalton, Georgia (the licensee); for construction and operation of the Vogtle Electric Generating Plant (VEGP) Units 3 and 4, located in Burke County, Georgia.

The granting of the exemption allows the changes to Tier 1 information asked for in the amendment. Because the acceptability of the exemption was determined in part by the acceptability of the amendment, the exemption and amendment are being issued concurrently.

DATES: The exemption and amendment were issued on December 29, 2016.

ADDRESSES: Please refer to Docket ID NRC–2008–0252 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and is publicly available, using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2008–0252. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS Search*.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. The request for the amendment and exemption was submitted by letter dated July 25, 2016 (ADAMS Accession No. ML16207A340).
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Chandu Patel, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3025; email: *Chandu.Patel@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is granting an exemption from paragraph B of section III, ''Scope and Contents,'' of appendix D, ''Design Certification Rule for the AP1000,'' to part 52 of title 10 of the *Code of Federal Regulations* (10 CFR), and issuing License Amendment No. 62 to COLs, NPF–91 and NPF–92, to the licensee. The exemption is required by paragraph A.4 of Section VIII, ''Processes for Changes and Departures,'' of appendix D, to 10 CFR part 52 to allow the licensee to depart from Tier 1 information. With the requested amendment, the licensee sought proposed changes that would allow changes in appendix C of the COLs to clarify the flow area for the Automatic Depressurization System (ADS) fourth stage squib valves and to reduce the minimum effective flow area for the second and third stage ADS control valves.

Part of the justification for granting the exemption was provided by the review of the amendment. Because the exemption is necessary in order to issue the requested license amendment, the NRC granted the exemption and issued the amendment concurrently, rather than in sequence. This included issuing a combined safety evaluation containing the NRC staff's review of both the exemption request and the license amendment. The exemption met all applicable regulatory criteria set forth in

10 CFR 50.12, and 52.7, and Section VIII.A.4 of appendix D to 10 CFR part 52. The license amendment was found to be acceptable as well. The combined safety evaluation is available in ADAMS under Accession No. ML16357A681.

Identical exemption documents (except for referenced unit numbers and license numbers) were issued to the licensee for VEGP Units 3 and 4 (COLs NPF–91 and NPF–92). The exemption documents for VEGP Units 3 and 4 can be found in ADAMS under Accession Nos. ML16357A659 and ML16357A665, respectively. The exemption is reproduced (with the exception of abbreviated titles and additional citations) in Section II of this document. The amendment documents for COLs NPF–91 and NPF–92 are available in ADAMS under Accession Nos. ML16357A651 and ML16357A654, respectively. A summary of the amendment documents is provided in Section III of this document.

II. Exemption

Reproduced below is the exemption document issued to VEGP Units 3 and Unit 4. It makes reference to the combined safety evaluation that provides the reasoning for the findings made by the NRC (and listed under Item 1) in order to grant the exemption:

1. In a letter dated July 25, 2016, the licensee requested from the Commission an exemption to allow departures from Tier 1 information in the certified DCD incorporated by reference in 10 CFR part 52, appendix D, as part of license amendment request 16–012, ''Automatic Depressurization System (ADS) Stage 2, 3, and 4 Valve Flow Area Changes and Clarifications.''

For the reasons set forth in Section 3.1 of the NRC staff's Safety Evaluation, which can be found in ADAMS under Accession No. ML16357A681, the Commission finds that:

A. The exemption is authorized by law;

B. the exemption presents no undue risk to public health and safety;

C. the exemption is consistent with the common defense and security;

D. special circumstances are present in that the application of the rule in this circumstance is not necessary to serve the underlying purpose of the rule;

E. the special circumstances outweigh any decrease in safety that may result from the reduction in standardization caused by the exemption; and

F. the exemption will not result in a significant decrease in the level of safety otherwise provided by the design.

2. Accordingly, the licensee is granted an exemption from the certified DCD Tier 1 information, with corresponding changes to Appendix C of the Facility Combined Licenses as described in the licensee's request dated July 25, 2016. This exemption is related to, and necessary for, the granting of License Amendment No. 62, which is being issued concurrently with this exemption.

3. As explained in Section 5.0 of the NRC staff's Safety Evaluation (ADAMS Accession No. ML16357A681), this exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment needs to be prepared in connection with the issuance of the exemption.

4. This exemption is effective as of the date of its issuance.

III. License Amendment Request

By letter dated July 25, 2016 (ADAMS Accession No. ML16207A340), the licensee requested that the NRC amend the COLs for VEGP, Units 3 and 4, COLs NPF–91 and NPF–92. The proposed amendment is described in Section I of this **Federal Register** notice.

The Commission has determined for these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or COL, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** on August 30, 2016 (81 FR 59659). No comments were received during the 30-day comment period.

The Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments.

IV. Conclusion

Using the reasons set forth in the combined safety evaluation, the staff granted the exemption and issued the amendment that the licensee requested on dated July 25, 2016. The exemption and amendment were issued on December 29, 2016, as part of a combined package to the licensee (ADAMS Accession No. ML16357A640).

Dated at Rockville, Maryland, this 17th day of January 2017.

For the Nuclear Regulatory Commission.

Jennifer Dixon-Herrity,

Chief, Licensing Branch 4, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. 2017–01695 Filed 1–24–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on APR 1400; Notice of Meeting

The ACRS Subcommittee on APR 1400 will hold a meeting on February 8, 2017, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance with the exception of portions that may be closed to protect information that is proprietary pursuant to 5 U.S.C. 552b(c)(4). The agenda for the subject meeting shall be as follows:

Wednesday, February 8, 2017—8:30 a.m. Until 5:00 p.m.

The Subcommittee will review topical reports related to the APR 1400 Design Control Document, Chapter 4, ''Reactor.'' The Subcommittee will hear presentations by and hold discussions with the NRC staff and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Christopher Brown (Telephone 301–415–7111 or Email: *Christopher.Brown@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and

participation in ACRS meetings were published in the **Federal Register** on October 17, 2016, (81 FR 71543).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, Maryland. After registering with Security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Date: January 17, 2017.

Mark L. Banks,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2017–01685 Filed 1–24–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards

Notice of Meeting

In accordance with the purposes of Sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting on February 9–11, 2017, 11545 Rockville Pike, Rockville, Maryland.

Thursday, February 9, 2017, Conference Room T2–B1, 11545 Rockville Pike, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–11:30 a.m.: Selected Chapters of the Safety Evaluation Reports (SERs) with Open Items Associated with the Advanced Power Reactor 1400 (APR 1400) Design Certification and Selected Topical Reports (Open/Closed)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and Korea Hydro & Nuclear Power regarding selected chapters of the SER with Open Items associated with the APR 1400 Design Certification and selected topical reports. [NOTE: A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4)]

1:00 p.m.–2:30 p.m.: Draft Final Regulatory Guide 1.207, ''Guidelines for Evaluating the Effects of Light-Water Reactor Coolant Environments and Fatigue Analyses of Metal Components'' (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the subject draft regulatory guide.

2:45 p.m.–4:15 p.m.: Generic Quality Assurance Lessons Learned—New Reactors (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding generic quality assurance lessons learned in regard to new reactor activities.

4:15 p.m.–6:00 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will discuss proposed ACRS reports on matters discussed during this meeting. [NOTE: A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4)]

Friday, February 10, 2017, Conference Room T2–B1, 11545 Rockville Pike, Rockville, Maryland

8:30 a.m.–10:00 a.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee (Open/Closed)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the Full Committee during future ACRS Meetings, and matters related to the conduct of ACRS business, including anticipated workload and member assignments. [**NOTE:** A portion of this meeting may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.]

10:00 a.m.–10:15 a.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations to comments and recommendations included in recent ACRS reports and letters.

10:30 a.m.–11:30 a.m.: Re-evaluation of ACRS Research Review Process and Report (Open)—Member Rempe will hold a discussion on the above subject.

Saturday, February 11, 2017, Conference Room T2–B1, 11545 Rockville Pike, Rockville, Maryland

8:30 a.m.–11:30 a.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports discussed during this meeting. [NOTE: A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4)]

11:30 a.m.–12:00 p.m.: Miscellaneous (Open)—The Committee will continue its discussion related to the conduct of Committee activities and specific issues that were not completed during previous meetings.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 17, 2016 (81 FR 71543). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Persons desiring to make oral statements should notify Quynh Nguyen, Cognizant ACRS Staff (Telephone: 301–415–5844, Email: *Quynh.Nguyen@nrc.gov*), 5 days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS staff if such rescheduling would result in major inconvenience.

Thirty-five hard copies of each presentation or handout should be provided 30 minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the Cognizant ACRS Staff one day before meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the Cognizant ACRS Staff with a CD containing each presentation at least 30 minutes before the meeting.

In accordance with Subsection 10(d) of Public Law 92–463 and 5 U.S.C. 552b(c), certain portions of this meeting may be closed, as specifically noted above. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the

Chairman. Electronic recordings will be permitted only during the open portions of the meeting.

ACRS meeting agendas, meeting transcripts, and letter reports are available through the NRC Public Document Room at *pdr.resource@nrc.gov,* or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/ACRS/*.

Video teleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m. (ET), at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

Dated at Rockville, Maryland, this 18th day of January 2017.

For the Nuclear Regulatory Commission.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 2017–01595 Filed 1–24–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) Meeting of The ACRS Subcommittee on Regulatory Policies and Practices; Notice of Meeting

The ACRS Subcommittee on Regulatory Policies and Practices will hold a meeting on February 7, 2017, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, February 7, 2017—8:30 a.m. Until 12:00 p.m.

The Subcommittee will discuss proposed updates to NRC's guidance for backfitting and cost-benefit analysis in accordance with Phase One of the staff's plan as described in SECY–14–0002. The Subcommittee will hear presentations by and hold discussions with the NRC staff and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Michael Snodderly (Telephone 301–415–2241 or Email: *Michael.Snodderly@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 17, 2016, (81 FR 71543).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, Maryland. After registering with Security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: January 17, 2017.

Mark L. Banks,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2017–01692 Filed 1–24–17; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2017–79 and CP2017–106]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* January 27, 2017

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's Web site (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2017–79 and CP2017–106; *Filing Title:* Request of the United States Postal Service to Add Priority Mail Contract 288 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date:* January 18, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Helen F. Vettori; *Comments Due:* January 27, 2017.

This notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2017–01686 Filed 1–24–17; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79834; File No. SR–NYSEArca–2017–01]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Amending the NYSE Arca Equities Rule 5 and Rule 8 Series

January 18, 2017.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act''),[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on January 6, 2017, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Equities Rule 5 and Rule 8 series to add additional continued listing standards as well as clarify the procedures it will undertake when an ETP is noncompliant with applicable rules. The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the listing rules for ETPs in the Rule 5 and Rule 8 series of the NYSE Arca Equities rule book to add additional continued listing standards as well as clarify the procedures it will undertake when an ETP is noncompliant with applicable rules. The proposed rule changes are being made in concert with discussions with the SEC. Staff (''Staff'') of the SEC's Division of Trading and Markets (''T&M'') requested that the Exchange adopt certain additional continued listing standards for ETPs.

As a result, the proposed amended rules reflect the guidance provided by T&M Staff to clarify that most initial listing standards, as well as certain representations included in Exchange rule filings under SEC Rule 19b–4 to list an ETP (''Exchange Rule Filings''), are also considered continued listing standards. The Exchange Rule Filing representations that will also be required to be maintained on a continuous basis include (a) the description of the fund and (b) the fund's investment restrictions.

The proposed rule changes require that ETPs listed by the Exchange without an Exchange Rule Filing must maintain the initial index or reference asset criteria on a continued basis. For example, in the case of a domestic equity index, these criteria generally include: (a) Stocks with 90% of the weight of the index must have a minimum market value of at least $75 million; (b) stocks with 70% of the weight of the index must have a minimum monthly trading volume of at least 250,000 shares; (c) the most heavily weighted component cannot exceed 30% of the weight of the index, and the five most heavily weighted stocks cannot exceed 65%; (d) there must be at least 13 stocks in the index; and (e) all securities in the index must be listed in the U.S. There are similar criteria for international indexes, fixed-income indexes and indexes with a combination of components.

If an Exchange Rule Filing is made to list a specific ETP, the proposed rule change requires that the issuer of the security comply on a continuing basis with any statements or representations contained in the applicable rule proposal, including (a) the description of the portfolio and (b) limitations on portfolio holdings or reference assets. The NYSE Arca listing rules will also be modified to require that issuers of securities listed under the Rule 5 and Rule 8 series must notify the Exchange regarding instances of non-compliance. In addition, while listed ETPs are currently subject to the delisting process in Rule 5.5(m), the rules will be clarified to make this explicit.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Sections 6(b)(5) [5] of the Act, in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange also believes that the proposed rule change is consistent with Section 6(b)(5) [6] of the Act in that it is

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(b)(5).

not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed rule changes accomplish these objectives by enhancing Exchange rules by clarifying that most initial listing standards, as well as certain representations included in Exchange Rule Filings to list an ETP, are considered continued listing standards. Additionally, the NYSE Arca listing rules will be modified to require that issuers of securities listed under the Rule 5 and Rule 8 series must notify the Exchange regarding instances of non-compliance and to clarify that deficiencies will be subject to the delisting process in Rule 5.5(m). The Exchange believes that these amendments will enhance the NYSE Arca listing rules, thereby serving to improve the national market system and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, as amended. The Exchange believes that the proposed rule change to amend the listing rules for ETPs in the NYSE Arca Rule 5 and Rule 8 series and the related notification requirement will have no impact on competition. Furthermore, since T&M Staff has provided the same guidance regarding ETP continued listing requirements to all exchanges, the Exchange believes that there will be no effect on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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–NYSEArca–2017–01 *on the subject line.*

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2017–01. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2017–01 and should be submitted on or before February 15, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–01612 Filed 1–24–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79835; File No. SR–Phlx–2016–119]

Self-Regulatory Organizations; NASDAQ PHLX LLC; Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To Amend the PIXL Price Improvement Auction in Phlx Rule 1080(n) and To Make Pilot Program Permanent

January 18, 2017.

I. Introduction

On December 6, 2016, NASDAQ PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1], and Rule 19b–4 thereunder,[2] a proposed rule change to amend the eligibility requirements for its Price Improvement XL mechanism (''PIXL'' or ''Auction'') and make permanent those aspects of PIXL that are currently operating on a pilot basis. On December 15, 2016, the Exchange filed Amendment No. 1 to the proposed rule change, which amended and replaced the proposed rule change in its entirety. The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on December 22, 2016.[3] The Commission received no comments regarding the proposal. This order approves the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Proposal

The Exchange adopted PIXL in October 2010 as a price-improvement mechanism on the Exchange.[4] PIXL is a component of the Exchange's fully automated options trading system, PHLX XL®, that allows an Exchange member (an ''Initiating Member'') to

[7] 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. 79584 (December 16, 2016), 81 FR 93979 (''Notice'').

[4] *See* Securities Exchange Act Release No. 63027 (October 1, 2010), 75 FR 62160 (October 7, 2010) (SR–Phlx–2010–108) (''PIXL Approval Order'').

electronically submit for execution a simple or complex order it represents as agent on behalf of a public customer, broker dealer, or any other entity (''PIXL Order'') against principal interest or against any other order it represents as agent (an ''Initiating Order'') provided it submits the PIXL Order for electronic execution into PIXL.

Certain aspects of PIXL are currently operating on a pilot basis (''Pilot''),[5] which is set to expire on January 18, 2017.[6] In this proposal, the Exchange proposes to make the Pilot permanent. In addition, Phlx proposes to modify the requirements for PIXL auctions involving less than 50 contracts (other than auctions involving Complex Orders) where the National Best Bid and Offer (''NBBO'') is only $0.01 wide.

A. PIXL Auction Eligibility

Currently, a PIXL Auction may be initiated if all of the following conditions are met. If the PIXL Order (except if it is a Complex Order) is for the account of a public customer the Initiating Member must stop the entire PIXL Order (except if it is a Complex Order) at a price that is equal to or better than the NBBO and the internal market BBO (the ''Reference BBO'') on the opposite side of the market from the PIXL Order, provided that such price must be at least one minimum price improvement increment (as determined by the Exchange but not smaller than one cent) better than any limit order on the limit order book on the same side of the market as the PIXL Order.[7]

If the PIXL Order (except if it is a Complex Order) is for the account of a broker dealer or any other person or entity that is not a public customer the Initiating Member must stop the entire PIXL Order (except if it is a Complex Order) at a price that is the better of: (i) The Reference BBO price improved by at least one minimum price improvement increment on the same side of the market as the PIXL Order, or (ii) the PIXL Order's limit price (if the order is a limit order), provided in either case that such price is at or better than the NBBO and the Reference BBO.[8]

PHLX proposes to amend PIXL to require that, if the PIXL Order (except if it is a Complex Order) is for less than 50 option contracts, and if the difference between the NBBO is $0.01, the Initiating Member must stop the entire PIXL Order at one minimum price improvement increment better than the NBBO on the opposite side of the market from the PIXL Order, and better than any limit order on the limit order book on the same side of the market as the PIXL Order. This requirement would apply regardless of whether the PIXL Order is for the account of a public customer, or where the PIXL Order is for the account of a broker dealer or any other person or entity that is not a Public Customer. The Exchange would continue to require that the Initiating Member stop the entire PIXL Order at a price that is better than any limit order on the limit order book on the same side of the market as the PIXL Order regardless of the size of the PIXL Order and the width of the NBBO.

The Exchange would retain the current requirements for Auction eligibility in all other instances. Accordingly, if the PIXL Order (except if it is a Complex Order) is for the account of a public customer and such order is for 50 option contracts or more or if the difference between the NBBO is greater than $0.01, the Initiating Member must stop the entire PIXL Order at a price that is equal to or better than the NBBO on the opposite side of the market from the PIXL Order, provided that such price must be at least one minimum price improvement increment (as determined by the Exchange but not smaller than one cent) better than any limit order on the limit order book on the same side of the market as the PIXL Order. If the PIXL Order (except if it is a Complex Order) is for the account of a broker dealer or any other person or entity that is not a public customer and such order is for 50 option contracts or more, or if the difference between the NBBO is greater than $0.01, the Initiating Member must stop the entire PIXL Order (except if it is a Complex PIXL Order) at a price that is the better of: (i) The Reference BBO price improved by at least the Minimum Increment on the same side of the market as the PIXL Order, or (ii) the PIXL Order's limit price (if the order is a limit order), provided in either case that such price is at or better than the NBBO and the Reference BBO.[9]

The Exchange believes that these changes to PIXL may provide additional opportunities for PIXL Orders, other than Complex Orders, of under 50 option contracts to receive price improvement over the NBBO where the difference in the NBBO is $0.01 and therefore encourage the increased submission of orders of under 50 option contracts.[10] Phlx notes that the statistics for the current pilot, which include, among other things, price improvement for orders of less than 50 option contracts under the current Auction eligibility requirements, show relatively small amounts of price improvement for such orders.[11] Phlx believes that the proposed requirements will therefore increase the price improvement that orders of under 50 option contracts may receive in PIXL.[12] The Exchange also notes that the initial PIXL requirements for Auction eligibility had differentiated between PIXL Orders for a size of less than 50 option contracts and PIXL Orders for a size of 50 contracts or more (both for PIXL Orders for the account of a public customer and for the account of a broker-dealer of any other person or entity that is not a public customer), with more stringent requirements for PIXL Orders for a size of less than 50 option contracts.[13]

B. Pilot Program

As described above, four components of the PIXL system are currently operating on a pilot basis: (i) Auction eligibility for Complex Orders in a PIXL Auction; (ii) no minimum size requirement of orders entered into PIXL; (iii) the early conclusion of a PIXL Auction; and (iv) the provision that an unrelated market or marketable limit order (against the PBBO) on the opposite side of the market from the PIXL Order received during the Auction will not cause the Auction to end early and will execute against interest outside

[5] Four components of the PIXL system are currently operating on a pilot basis: (i) Auction eligibility for Complex Orders in a PIXL Auction; (ii) the provision that an unrelated market or marketable limit order (against the PBBO) on the opposite side of the market from the PIXL Order received during the Auction will not cause the Auction to end early and will execute against interest outside of the Auction; (iii) the early conclusion of a PIXL Auction; and (iv) no minimum size requirement of orders entered into PIXL.

[6] *See* Securities Exchange Act Release No. 78301 (July 12, 2016), 81 FR 46731 (July 18, 2016) (SR–PHLX–2016–75).

[7] *See* Phlx Rule 1080(n)(i)(A).

[8] *See* Phlx Rule 1080(n)(i)(B).

[9] The Exchange also proposes to add language to Rule 1080(n)(i) to clarify that, if any of the Auction eligibility criteria are not met, the PIXL Order will be rejected. The Exchange further proposes to add language to Rule 1080(n)(i) to clarify the treatment of paired public customer-to-public customer orders pursuant to Rule 1080(n)(vi) as a result of these proposed changes. Specifically, Exchange would allow a PIXL Order to trade on either the bid or offer, pursuant to Rule 1080(n)(vi), if the NBBO is $0.01 wide, provided (1) the execution price is equal to or within the NBBO, (2) there is no resting customer at the execution price, and (3) $0.01 is the Minimum Price Variation (MPV) of the option. The Exchange also proposes to add language that it will continue to reject a PIXL Order to buy (sell) if the NBBO is only $0.01 wide and the Agency order is stopped on the bid (offer) if there is a resting order on the bid (offer). The Exchange states that these requirements are unchanged from the Exchange's current practice.

[10] *See* Notice, *supra* note 3, at 93981.

[11] *See id.*

[12] *See id.*

[13] *See* PIXL Approval Order, *supra* note 4 at 62161.

of the Auction. The pilot has been extended until January 18, 2017.[14]

During the Pilot period, the Exchange submitted certain data periodically as required by the Commission, to provide supporting evidence that, among other things, there is meaningful competition for all size orders, there is significant price improvement available through PIXL, and that there is an active and liquid market functioning on the Exchange both within PIXL and outside of the Auction mechanism.[15] The Exchange has requested that the Commission approve the Pilot on a permanent basis.

1. Complex Orders

Rule 1080(n) sets forth Auction eligibility requirements for Complex Orders. If the PIXL Order is a Complex Order and of a conforming ratio, as defined in Rule 1098(a)(i) and (a)(ix), the Initiating Member must stop the entire PIXL Order at a price that is better than the best net price (debit or credit) (i) available on the Complex Order book regardless of the Complex Order book size; and (ii) achievable from the best Phlx bids and offers for the individual options (an ''improved net price''), provided in either case that such price is equal to or better than the PIXL Order's limit price. Complex Orders consisting of a ratio other than a conforming ratio will not be accepted.[16] This provision applies to all Complex Orders submitted into PIXL and, where applied to Complex Orders where the smallest leg is less than 50 contracts in size, is part of the current Pilot.[17]

The Exchange does not propose to modify the Auction eligibility requirements for Complex Orders to require increased price improvement. The Exchange states that Rule 1080(n)(i)(C) already requires that the Initiating Member must stop the entire PIXL Order at a price that is better than the best net price (debit or credit) that is available on the Complex Order book regardless of the Complex Order book size; and that is achievable from the best Phlx bids and offers for the individual options, provided in either case that such price is equal to or better than the PIXL Order's limit price.[18]

The Exchange proposes, however, to make permanent the sub-paragraph concerning Auction eligibility for Complex Orders in PIXL. Rule 1080(n)(i)(C) states that the Auction eligibility requirements for a PIXL Order that is a Complex Order, where applied to Complex Orders where the smallest leg is less than 50 contracts in size, is part of the current Pilot.[19] The Exchange states that the initial proposed Auction eligibility requirements for simple PIXL Orders of less than 50 contracts were more stringent than the Auction eligibility requirements for simple PIXL Orders of 50 contracts or more.[20] In approving different Auction eligibility requirements for simple PIXL Orders of less than 50 contracts, the Commission noted that it was approving this provision on a pilot basis so that it could ascertain the level of price improvement attained for smaller-sized orders during the pilot period.[21] The Exchanges subsequently proposed implementing size-based Auction eligibility requirements for Complex Orders in PIXL on a pilot basis.[22] The Commission subsequently approved the elimination of the size-based distinction for Auction eligibility for simple PIXL Orders, and permitted Phlx to adopt the Auction eligibility standard that previously applied to orders of 50 contracts or greater.[23]

Phlx believes it is appropriate to approve this aspect of the Pilot on a permanent basis for two reasons.[24] First, Phlx notes that the Auction eligibility requirements for simple PIXL Orders are currently operating on a permanent basis.[25] Although the Auction eligibility requirements for Complex PIXL Orders distinguish between Complex PIXL Orders where the smallest leg is less than 50 contracts and Complex PIXL Orders where the smallest leg is 50 contracts or greater, the substantive Auction eligibility requirements for all Complex PIXL Orders are currently the same. The Exchange believes that to the extent that the SEC approved the simple PIXL Order Auction eligibility requirements on a pilot basis, it was to determine if the different Auction eligibility requirements for simple PIXL Orders of less than 50 contracts resulted in different levels of price improvement for those orders in comparison to simple PIXL Orders of 50 contracts or greater.[26] Since no comparable distinction exists here, and since the Auction eligibility requirements for Complex PIXL Orders where the smallest leg is 50 contracts or greater is already operating on a permanent basis, Phlx believes it is appropriate to approve, on a permanent basis, the same Auction eligibility requirements for Complex PIXL Orders where the smallest leg is less than 50 contracts.[27]

Second, the Exchange also believes that it is appropriate to approve this aspect of the Pilot on a permanent basis for Complex Orders where the smallest leg is less than 50 contracts in size because this will continue to provide such Orders with the opportunity to receive price improvement.[28] Specifically, the Exchange believes that the Auction eligibility requirements, which require a Complex Order to be stopped at a net debit/credit price that improves upon the stated markets present for the individual components of the Complex Order, ensure that at least one option leg will be executed at a better price than the established bid or offer for such leg.[29] Phlx asserts that it has gathered data throughout the Pilot that indicates that there is a robust market for simple orders, including small customer orders, both within and outside of PIXL, and significant opportunities for price improvement for small customer orders that are entered into PIXL.[30] Phlx believes that the market for Complex Orders, including small customer orders, both within and outside of PIXL is similarly robust, and therefore has requested that the Commission approve this aspect of the Pilot on a permanent basis.[31]

2. No Minimum Size Requirement

Rule 1080(n)(vii) provides that, as part of the current Pilot, there will be no minimum size requirement for orders to be eligible for the Auction.[32] The Exchange believes that the data gathered since the approval of the Pilot, which it discussed in the Notice, establishes that there is liquidity and competition both within PIXL and outside of PIXL, and

[14] *See supra* note 6.

[15] *See* Phlx Rule 1080(n)(vii).

[16] *See* Phlx Rule 1080(n)(i)(C).

[17] *See id.*

[18] *See* Notice, *supra* note 3, at 93982.

[19] The Commission approved expanding PIXL to include Complex Orders in 2013, and approved this provision on a pilot basis. *See* Securities Exchange Act Release No. 69845 (June 25, 2013), 78 FR 39429 (July 1, 2013) (SR–Phlx–2013–46) (''Complex PIXL Approval Order'').

[20] *See* PIXL Approval Order, *supra* note 4 at 62161.

[21] *See* PIXL Approval Order, *supra* note 4 at 62161–62.

[22] *See* Complex PIXL Approval Order, *supra* note 19.

[23] *See* Securities Exchange Act Release No. 70654 (October 10, 2013), 78 FR 62891 (October 22, 2013) (SR–Phlx–2013–76).

[24] *See* Notice, *supra* note 3, at 93982.

[25] *See* PIXL Approval Order, *supra* note 4.

[26] *See* Notice, *supra* note 3, at 93982.

[27] *See id.*

[28] *See id.*

[29] *See id.*

[30] *See* Notice, *supra* note 3, at 93983.

[31] *See id.*

[32] The Rule also requires the Exchange to submit certain data, periodically as required by the Commission, to provide supporting evidence that, among other things, there is meaningful competition for all size orders and that there is an active and liquid market functioning on the Exchange outside of the Auction mechanism. Any raw data which is submitted to the Commission will be provided on a confidential basis.

that there are opportunities for significant price improvement within PIXL.[33]

The Exchange also has gathered information about activity in orders for less than 50 contracts and 50 contracts or greater for simple PIXL Auctions between January and June 2015. For Auctions occurring during that period, 93% of Auctions were for orders for less than 50 contracts, a percentage that increased slightly over that time period. Auctions for orders of less than 50 contracts accounted for 45.5% of the contract volume traded in PIXL. Auctions of 50 contracts or more made up 7.0% of all PIXL Auctions and accounted for 54.5% of contracts traded in PIXL.[34]

With respect to price improvement, 68.6% of PIXL Auctions for simple PIXL Orders executed at a price that was better than the NBBO at the time the Auction began. 69.2% of Auctions for less than 50 contracts received price improvement. 56.3% of Auctions for 50 contracts or more received price improvement. 66.5% of contracts in Auctions for less than 50 contracts received price improvement. 55.7% of Auctions for 50 contracts or more received price improvement.[35]

Phlx has also gathered data relating to the number of Complex Orders entered into PIXL. For November 2016, a total of 18,016 orders were entered into PIXL where the smallest leg was less than 50 contracts, representing 99,941 contracts. For November 2016, a total of 641 orders were entered into PIXL where the smallest leg was 50 contracts or greater, representing 52,686 contracts.[36]

The Exchange believes that the data gathered during the Pilot period indicates that there is meaningful competition in PIXL Auctions for all size orders, there is an active and liquid market functioning on the Exchange outside of the auction mechanism, and that there are opportunities for significant price improvement for orders executed through PIXL.[37] With respect to Complex Orders, the Exchange believes that this data establishes that there is liquidity and competition both within PIXL for Complex Orders and outside of PIXL for Complex Orders.[38] The Exchange therefore has requested that the Commission approve the no minimum size requirement on a permanent basis for both simple and Complex PIXL Orders.

3. Early Conclusion of the PIXL Auction

Rule 1080(n)(ii)(B) provides that the PIXL Auction shall conclude at the earlier of (i) the end of the Auction period; (ii) for a PIXL Auction (except if it is a Complex Order), any time the Reference BBO crosses the PIXL Order stop price on the same side of the market as the PIXL Order; (iii) for a Complex Order PIXL Auction, any time the cPBBO [39] or the Complex Order book crosses the Complex PIXL Order stop price on the same side of the market as the Complex PIXL Order; or (iv) any time there is a trading halt on the Exchange in the affected series.[40] The last three conditions are operating as part of the current Pilot.

As with the no minimum size requirement, the Exchange has gathered data on these three conditions to assess the effect of early PIXL Auction conclusions on the Pilot.[41] Between January and June 2015, 320 Auctions for simple PIXL Orders terminated early because the Phlx BBO crossed the PIXL Order stop price on the same side of the market. No Auctions terminated early because of halts. The number of Auctions that terminated early was 1/100th of 1% of all PIXL Auctions over the period. The Auctions that terminated early included 1/100th of 1% of contracts traded in PIXL Auctions. The share of Auctions that terminated early was stable between January and June 2015.[42]

Between January and June 2015, 76.3% of PIXL Auctions for simple PIXL Orders that terminated early executed at a price that was better than the NBBO at the time the Auction began. 71.9% of contracts in Auctions that terminated early received price improvement. The average amount of price improvement per contract for PIXL Auctions that terminated early was 4.1%.[43]

Based on the data gathered during the pilot, the Exchange does not anticipate that any of these conditions will occur with significant frequency, or will otherwise significantly affect the functioning of PIXL Auctions.[44] The Exchange also notes that over 75% of PIXL Auctions for simple PIXL Orders that terminated early executed at a price that was better than the NBBO at the time the Auction began, and over 70% of contracts in Auctions that terminated early received price improvement.[45] With respect to Complex PIXL Orders, the Exchange similarly does not anticipate, based on the data gathered on this aspect of the Pilot for simple PIXL Orders, that either Rule 1080(n)(ii)(B)(3) or (4) will occur with significant frequency, or will otherwise significantly affect the functioning of Complex PIXL Order Auctions.[46] The Exchange therefore has requested that the Commission approve this aspect of the Pilot on a permanent basis for both simple and Complex PIXL Orders.

4. Unrelated Market or Marketable Limit Order

Rule 1080(n)(ii)(D) provides that an unrelated market or marketable limit order (against the PBBO) on the opposite side of the market from the PIXL Order received during the Auction will not cause the Auction to end early and will execute against interest outside of the Auction. In the case of a Complex PIXL Auction, an unrelated market or marketable limit Complex Order on the opposite side of the market from the Complex PIXL Order as well as orders for the individual components of the Complex Order received during the Auction will not cause the Auction to end early and will execute against interest outside of the Auction. If contracts remain from such unrelated order at the time the Auction ends, they will be considered for participation in the order allocation process described elsewhere in the Rule. This section is operating as part of the current Pilot.

In approving this feature on a pilot basis, the Commission found that

[33] *See* Notice, *supra* note 3, at 93983. *See also* Exhibit 3 to SR–Phlx–2016–119.

[34] *See* Notice, *supra* note 3, at 93983.

[35] *See id.*

[36] *See id.*

[37] *See id.*

[38] *See id.*

[39] Rule 1098(a) defines the cPBBO as ''the best net debit or credit price for a Complex Order Strategy based on the PBBO for the individual options components of such Complex Order Strategy, and, where the underlying security is a component of the Complex Order, the National Best Bid and/or Offer for the underlying security.'' *See* Rule 1098(a)(iv).

[40] If the situations described in either of the final three conditions occur, the entire PIXL Order will be executed at: (1) in the case of the Reference BBO crossing the PIXL Order stop price, the best response price(s) or, if the stop price is the best price in the Auction, at the stop price, unless the best response price is equal to or better than the price of a limit order resting on the PHLX book on the same side of the market as the PIXL Order, in which case the PIXL Order will be executed against that response, but at a price that is at least one minimum price improvement increment better than the price of such limit order at the time of the conclusion of the Auction; (2) in the case of the cPBBO or the Complex Order book crossing the Complex PIXL Order stop price on the same side of the market as the Complex PIXL Order, the stop price against executable PAN responses and executable Complex Orders using the allocation algorithm in sub-paragraph (E)(2)(d)(i) through (iv); or (3) in the case of a trading halt on the Exchange in the affected series, the stop price, in which case the PIXL Order will be executed solely against the Initiating Order. Any unexecuted PAN responses will be cancelled. *See* Rule 1080(n)(ii)(C).

[41] *See* Exhibit 3 to SR-Phlx-2016–119.

[42] *See* Notice, *supra* note 3, at 93984.

[43] *See id.*

[44] *See id.*

[45] *See id.*

[46] *See id.*

''allowing the PIXL auction to continue for the full auction period despite receipt of unrelated orders outside the Auction would allow the auction to run its full course and, in so doing, will provide a full opportunity for price improvement to the PIXL Order. Further, the unrelated order would be available to participate in the PIXL order allocation.'' [47] The Exchange does not believe that this provision has had a significant impact on either the unrelated order or the PIXL Auction process, either for simple or Complex PIXL Orders.[48] The Exchange therefore has requested that the Commission approve this aspect of the Pilot on a permanent basis for both simple and Complex PIXL Orders.

III. 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 and, in particular, with Section 6(b) of the Act.[49] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[50] 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect customers, issuers, brokers and dealers.

As part of its proposal, the Exchange provided summary data on Exhibit 3 of its filing for the period January through June 2015, which the Exchange and Commission both publicly posted on their respective Web sites. Among other things, this data is useful in assessing the level of price improvement in the Auction, in particular for orders for fewer than 50 contracts; the degree of competition for order flow in such Auctions; and a comparison of liquidity in the Auctions with liquidity on the Exchange generally.[51] Based on the data provided by the Exchange, the Commission believes that the Exchange's price improvement auction generally delivers a meaningful opportunity for price improvement to orders, including orders for fewer than 50 contracts, when the spread in the option is $0.02 or more. At the same time, as the Exchange has recognized, the data do not demonstrate that such orders have realized significant price improvement when the NBBO has a bid/ask differential of $0.01.[52] Recognizing this, the Exchange has proposed to amend the Auction eligibility requirements to require price improvement of at least one minimum price improvement increment over the NBBO for PIXL Orders of less than 50 option contracts where the difference in the NBBO is $0.01.

The Exchange's proposal to modify the Auction eligibility requirements for orders of fewer than 50 contracts and seek permanent approval of the Pilot, as amended with the new provision, will, in the Commission's view, promote opportunities for price improvement for such orders when the NBBO is $0.01 wide, while continuing to provide opportunities for price improvement when spreads are wider than $0.01.

In addition, the Commission has carefully evaluated the PIXL Pilot data and has determined that it would be beneficial to customers and to the options market as a whole to approve on a permanent basis the provisions concerning early conclusion of the PIXL Auction, and the receipt of an unrelated market or marketable limit order (against the Phlx BBO) on the opposite side of the market from the PIXL Order during the Auction. The Commission notes that there have been few instances of early termination of PIXL. The Commission further notes that permitting the PIXL Auction to continue despite receipt of unrelated orders outside the Auction would allow the Auction to run its full course and provide a full opportunity for price improvement to the PIXL Order while allowing the unrelated order to seek an execution, including in the Auction's order allocation.

The Commission believes that, particularly for Auctions for fewer than 50 contracts when the bid/ask differential is wider than $0.01, the data provided by the Exchange support its proposal to make the Pilot permanent. The data demonstrate that the Auction generally provides price improvement opportunities to simple and complex orders, including orders of retail customers and particularly when the bid/ask differential is wider than $0.01, that there is meaningful competition for orders on the Exchange; and that there exists an active and liquid market functioning on the Exchange outside of the Auction.[53] The Commission further believes that the proposed revisions to the eligibility requirements for simple PIXL Orders of fewer than 50 contracts with respect to circumstances when the NBBO is $0.01 wide should help to enhance the operation of the Auction by providing meaningful opportunities for price improvement in such circumstances, and should benefit investors and others in a manner that is consistent with the Act. Thus, the Commission has determined to approve the Exchange's proposed revisions to Rule 1080(n) and to approve the Pilot, as proposed to be modified, on a permanent basis.

IV. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the 30th day after publication of the notice thereof in the **Federal Register**. In particular, accelerated approval of the proposal would allow the applicable rules, as amended, to remain in effect following the expiration of the Pilot on January 18, 2017, which would avoid any potential investor confusion that could result from a suspension or temporary interruption in the Pilot. The Commission further notes that the original proposal, as modified by Amendment No. 1, was subject to a 21 day comment period and no comments were received on the proposal. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[54] to approve the proposed rule change prior to the 30th day after the date of publication of the notice of filing thereof in the **Federal Register**.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[55] that the proposed rule change (SR–Phlx–2016–119), as modified by Amendment No. 1, be and hereby is approved on an accelerated basis.

[47] *See* PIXL Approval Order, *supra* note 4.

[48] *See* Notice, *supra* note 3, at 93984.

[49] 15 U.S.C. 78f(b). 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).

[50] 15 U.S.C. 78f(b)(5).

[51] *See* Exhibit 3 to SR–Phlx–2016–119.

[52] *See* Notice, *supra* note 3, at 93985.

[53] *See* Exhibit 3 to SR–Phlx–2016–119.

[54] 15 U.S.C. 78s(b)(2).

[55] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[56]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–01613 Filed 1–24–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79821; File No. SR–ICC–2016–014]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change To Provide for the Clearance of Additional Credit Default Swap Contracts

January 18, 2017.

On November 18, 2016, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to provide for the clearance of additional credit default swap contracts. (File No. SR–ICC–2016–014). The proposed rule change was published for comment in the **Federal Register** on December 7, 2016.[3] To date, the Commission has not received comments on the proposed rule change.

Section 19(b)(2) of the Act [4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day from the publication of notice of filing of this proposed rule change is January 20, 2017.

The Commission is extending the 45-day time period for Commission action on the proposed rule change. ICC's proposes to revise the ICC Rulebook (the ''Rules'') to provide for the clearance of Standard Australian Corporate Single Name CDS contracts (collectively, ''STAC Contracts'') and Standard Australian Financial Corporate Single Name CDS contracts (collectively, ''STAFC Contracts''). The Commission finds it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider ICC's proposed rule change.

Accordingly, the Commission, pursuant to Section 19(b)(2) [5] of the Act, designates February 24, 2017, as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–ICC–2016–014).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–01606 Filed 1–24–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79831; File No. SR–BOX–2016–58]

Self-Regulatory Organizations; BOX Options Exchange LLC; Order Granting Approval of Proposed Rule Change To Amend Interpretive Material to Rule 7150 (Price Improvement Period ''PIP'') and Interpretive Material to Rule 7245 (Complex Order Price Improvement Period ''COPIP'') To Make Permanent the Pilot Programs That Permit the Exchange to Have No Minimum Size Requirement for Orders Entered Into the PIP (''PIP Pilot Program'') and COPIP (''COPIP Pilot Program'')

January 18, 2017.

I. Introduction

On December 9, 2016, BOX Options Exchange LLC (the ''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 eligibility requirements for its Price Improvement Period auction (''PIP'' or ''Auction'') and make permanent pilot programs for the PIP and Complex Order Price Improvement Period (''COPIP'') programs. The proposed rule change was published for comment in the **Federal Register** on December 16, 2016.[3] The Commission received no comments regarding the proposal. This order approves the proposed rule change.

II. Description of the Proposal

Pursuant to BOX Rule 7150, Options Participants executing agency orders (''Initiating Participants'') may designate Market Orders and marketable limit Customer Orders for price improvement and submission to the PIP (''PIP Orders'') along with a matching contra order equal to the full size of the PIP Order. The PIP was introduced with the launch of the BOX Options Exchange facility (''BOX Facility'') in 2004.[4] The COPIP mechanism allows complex orders to be submitted to the COPIP in substantially the same manner as orders for single options series instruments currently are submitted to the PIP. The COPIP was established in January 2014.[5]

The PIP Pilot Program and COPIP Pilot Program (''Pilot Programs'') guarantee Participants the right to trade with their customer orders that are less than 50 contracts. The rules permitting an Initiating Participant to enter an agency order into the PIP and COPIP with no minimum size requirement were approved on a pilot basis.[6] Any order entered into the PIP is guaranteed an execution at the end of the auction at a price at least equal to the National Best Bid and Offer (''NBBO'').[7] Any order entered into the COPIP is guaranteed an execution at the end of the auction at a price at least equal to or better than the cNBBO,[8] cBBO [9] and BBO on the Complex Order Book for the Strategy at the time of commencement.[10] Both Pilot Programs are scheduled to expire on January 18, 2017.[11]

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[56] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 79439 (Dec. 1, 2016), 81 FR 88291 (Dec. 7, 2016) (SR–ICC–2016–014).

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 79531 (December 12, 2016), 81 FR 91227 (''Notice'').

[4] *See* Securities Exchange Act Release Nos. 49068 (January 13, 2004), 69 FR 2775 (January 20, 2004) (SR–BSE–2003–04) (''PIP Approval Order'').

[5] *See* Securities Exchange Act Release No. 71148 (December 19, 2013) 78 FR 78437 (December 26, 2013) (''COPIP Approval Order'').

[6] *See* PIP Approval Order, *supra* note 4, and COPIP Approval Order, *supra* note 5.

[7] *See* BOX Rule 7150(f).

[8] The term ''cNBBO'' means the best net bid and offer price for a Complex Order Strategy based on the NBBO for the individual options components of such Strategy. *See* BOX Rule 7240(a)(3).

[9] The term ''cBBO'' means the best net bid and offer price for a Complex Order Strategy based on the BBO on the BOX Book for the individual options components of such Strategy. *See* BOX Rule 7240(a)(1).

[10] *See* BOX Rule 7245(f).

[11] *See* Securities Exchange Act Release No. 78353 (July 18, 2016), 81 FR 47843 (July 22, 2016) (SR–BOX–2016–32).

BOX proposes to amend the PIP and COPIP to make permanent the Pilot Programs that permit the Exchange to have no minimum size requirement for orders entered into the PIP. In addition, BOX proposes to modify the eligibility requirements for the PIP where the NBBO is only $0.01 wide.

A. PIP Eligibility Requirements

The Exchange proposes to amend the PIP eligibility requirements. Currently, a PIP Order may be submitted to BOX with a matching contra order that is equal to the full size of the PIP Order and at a price equal to or better than that of the NBBO at the time of the commencement of the PIP, at any NBBO spread. BOX proposes to amend the PIP to reject any Auction where the quoted NBBO spread [12] is less than or equal to $0.01.[13] While the Exchange believes that opportunities remain for price improvement where the NBBO spread is less than or equal to $0.01, the Exchange notes that the data for the current pilot shows small amounts of price improvement in these orders.[14]

B. PIP Pilot Program

The Exchange has provided the Commission with a summary report containing Auction data for the period between January through June 2015.[15] BOX believes that the data gathered demonstrates there is an active and liquid market functioning on the Exchange outside of the auction mechanism.[16] In the period between January and June 2015, 30.5 million contracts were executed through the BOX PIP, approximately 64% of BOX total contract volume. While during this period average daily contract volume traded through the PIP fell from 339,088 contracts per day in January 2015 to 255,150 contracts per day in June 2015, overall contract volume outside of the PIP also fell during that period. Additionally, with an average number of 4.0 participants in each auction, the data shows there is meaningful competition in PIP auctions for all size orders.[17]

The Exchange believes, based on the data, that there is significant price improvement and significant opportunity for price improvement when the NBBO spread is greater than $0.01.[18] During the period between January through June 2015, there was an average price improvement of $0.05 per contract for contracts executed through the PIP when BOX was at the NBBO, and $0.01 per contract for contracts executed through the PIP when BOX was not at the NBBO regardless of size.[19]

The Exchange has also gathered data on the premature terminations in the PIP. Between January and June 2015, the number of auctions that terminated early was less than 0.05% of all PIP auctions.[20]

C. COPIP Pilot Program

With respect to the COPIP Pilot Program, the Exchange notes that between January through June 2015, COPIP volume accounted for 41% of all complex order volume on BOX.[21] The average price improvement amount (when improved) was $0.11 for this same period. The average number of responders is higher for COPIP Orders of 50 contracts and under (0.23) when compared to COPIP Orders greater than 50 contracts (0.01). While the average numbers of responders in the COPIP is lower than that of the PIP, the Exchange believes that as volume in the COPIP increases, the overall average number of responders will also increase.[22]

The Exchange has also gathered data on the premature terminations in the COPIP to determine if these could result in a COPIP Order being disadvantaged by the early conclusion of or COPIP. Between January and June 2015, the number of auctions that terminated early was less than 0.09% of all COPIP auctions.[23]

III. 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 and, in particular, with Section 6(b) of the Act.[24] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[25] 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect customers, issuers, brokers and dealers.

As part of its proposal, the Exchange provided summary data on Exhibit 3 of its filing for the period January through June 2015, which the Exchange and Commission both publicly posted on their respective Web sites. Among other things, this data is useful in assessing the level of price improvement in the auction, in particular for orders for fewer than 50 contracts; the degree of competition for order flow in such auctions; and a comparison of liquidity in the auctions with liquidity on the Exchange generally.[26] Based on the data provided by the Exchange, the Commission believes that the Exchange's price improvement auction generally delivers a meaningful opportunity for price improvement to orders, including orders for fewer than 50 contracts, when the spread in the option is $0.02 or more. At the same time, as the Exchange has recognized, the data do not demonstrate that such orders have realized significant price improvement when the NBBO has a bid/ask differential of $0.01.[27] Recognizing this, the Exchange has proposed to amend the auction eligibility requirements to reject any Auction where the quoted NBBO spread is less than or equal to $0.01. The Exchange's proposal to modify the auction eligibility requirements and seek permanent approval of the Pilot Programs, as amended with the new provision, will, in the Commission's view, promote opportunities for price improvement.

The Commission believes that, particularly for auctions for fewer than 50 contracts when the bid/ask differential is wider than $0.01, the data provided by the Exchange support its proposal to make the Pilot Programs permanent. The data demonstrate that the auction generally provides price improvement opportunities to simple and complex orders, including orders of retail customers and particularly when the bid/ask differential is wider than $0.01, that there is meaningful

[12] The NBBO spread is the difference between the NBBO Bid and the NBBO Ask.

[13] All PIP Auctions where the NBBO spread is more than $0.01 will continue to be allowed.

[14] *See* Notice, *supra* note 3, at 91229. During the six month time period, .05% of auctions where the NBBO spread was less than or equal to $0.01 received price improvement. *See id.*

[15] *See* Notice, *supra* note 3, at 91228. *See* Exhibit 3 to SR–BOX–2016–58.

[16] *See* Notice, *supra* note 3, at 91229.

[17] *See id.*

[18] *See id.*

[19] *See id.*

[20] *See id.*

[21] *See id.*

[22] *See id.*

[23] *See id.*

[24] 15 U.S.C. 78f(b). 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).

[25] 15 U.S.C. 78f(b)(5).

[26] *See* Exhibit 3 to SR–BOX–2016–58.

[27] *See* Notice, *supra* note 3, at 91229.

competition for orders on the Exchange; and that there exists an active and liquid market functioning on the Exchange outside of the auction.[28] The Commission further believes that the proposed revisions to the eligibility requirements for simple PIP Orders with respect to circumstances when the NBBO is $0.01 wide should help to enhance the operation of the auction by limiting its use to circumstances when there are more meaningful opportunities for price improvement, and should benefit investors and others in a manner that is consistent with the Act. Thus, the Commission has determined to approve the Exchange's proposed revisions to Rule 7150 and to approve the Pilot Programs, as proposed to be modified, on a permanent basis.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[29] that the proposed rule change (SR–BOX–2016–58), be and hereby is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–01610 Filed 1–24–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79839; File No. SR–BatsBZX–2016–80]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Changes to BZX Rule 14.11, Other Securities, and BZX Rule 14.12, Failure To Meet Listing Standards

January 18, 2017.

On November 18, 2016, Bats BZX Exchange, Inc. (''BZX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to, among other things: (1) Amend the listing rules relating to exchange-traded products in BZX Rule 14.11 to add additional continued listing standards; and (2) incorporate certain changes to BZX Rule 14.12 (Failure to Meet Listing Standards). The proposed rule change was published for comment in the **Federal Register** on December 7, 2016.[3] The Commission has received one comment letter on the proposed rule change.[4]

Section 19(b)(2) of the Act [5] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is January 21, 2017. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates March 7, 2017, as the date by which the Commission shall either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–BatsBZX–2016–80).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–01617 Filed 1–24–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79841; File No. SR–ISEMercury–2016–25]

Self-Regulatory Organizations; ISE Mercury LLC; Order Granting Approval of Proposed Rule Change To Amend ISE Mercury Rule 723 and To Make Pilot Program Permanent

January 18, 2017.

I. Introduction

On December 12, 2016, ISE Mercury, LLC (the ''Exchange'' or ''ISE Mercury'') 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 eligibility requirements for its Price Improvement Mechanism (''PIM'' or ''Auction'') and make permanent those aspects of the PIM that are currently operating on a pilot basis. The proposed rule change was published for comment in the **Federal Register** on December 19, 2016.[3] The Commission received no comments regarding the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange adopted PIM as part of its application to be registered as a national securities exchange.[4] Pursuant to ISE Mercury Rule 723, an Electronic Access Member (''EAM'') may electronically submit for execution an order it represents as agent (''Agency Order'') against principal interest or against a solicited order for the full size of the Agency Order, provided it submits the Agency Order for electronic execution into the PIM (a ''Crossing Transaction''). Parts of the PIM are currently operating on a pilot basis (''Pilot''),[5] which is set to expire on January 18, 2017.[6] The Exchange proposes to make the Pilot permanent, and also proposes to amend the Auction eligibility requirements for certain

[28] *See* Exhibit 3 to SR–BOX–2016–58.

[29] 15 U.S.C. 78s(b)(2).

[30] 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. 79450 (December 1, 2016), 81 FR 88284.

[4] *See* letter from David W. Blass, General Counsel, Investment Company Institute, to Brent J. Fields, Secretary, Commission, dated January 12, 2017.

[5] 15 U.S.C. 78s(b)(2).

[6] *Id.*

[7] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 79539 (December 13, 2016), 81 FR 91982 (''Notice'').

[4] *See* Securities Exchange Act Release No. 76998 (January 29, 2016), 81 FR 6066 (February 4, 2016) (File No. 10–221) (''Exchange Approval Order'').

[5] Two components of PIM were approved by the Commission on a pilot basis: (1) The early conclusion of the PIM; and (2) no minimum size requirement of orders.

[6] *See* Securities Exchange Act Release No. 78342 (July 15, 2016), 81 FR 47481 (July 21, 2016) (SR–ISEMercury–2016–13) (''PIM July 2016 Extension'').

Agency Orders of less than 50 option contracts.

A. PIM Eligibility Requirements for Agency Orders of Fewer Than 50 Contracts

Currently, the PIM may be initiated if certain conditions are met. The Crossing Transaction must be entered only at a price that is equal to or better than the National Best Bid/Offer (''NBBO'') on the opposite side of the market from the Agency Order, and better than the limit order or quote on the ISE Mercury order book on the same side of the Agency Order.[7]

ISE Mercury proposes to amend ISE Mercury Rule 723(b) to require EAMs to provide at least $0.01 price improvement for an Agency Order if that order is for less than 50 option contracts and if the difference between the NBBO is $0.01. For the period beginning January 19, 2017 until a date specified by the Exchange in a Regulatory Information Circular, which date shall be no later than September 15, 2017, ISE Mercury will adopt a member conduct standard to implement this requirement.[8] Under this provision, ISE Mercury is proposing to amend the Auction Eligibility Requirements to require that, if the Agency Order is for less than 50 option contracts, and if the difference between the NBBO is $0.01, an EAM shall not enter a Crossing Transaction unless such Crossing Transaction is entered at a price that is one minimum price improvement increment better than the NBBO on the opposite side of the market from the Agency Order, and better than any limit order on the limit order book on the same side of the market as the Agency Order. This requirement will apply regardless of whether the Agency Order is for the account of a public customer, or where the Agency Order is for the account of a broker dealer or any other person or entity that is not a Public Customer.

Failure to provide such price improvement will subject members to the fines set forth in ISE Rule 1614(d)(4).[9] The Exchange stated that it will conduct electronic surveillance of the PIM to ensure that members comply with the proposed price improvement requirements for option orders of less than 50 contracts.[10]

The Exchange is also proposing a systems-based mechanism to implement this price improvement requirement, which shall be effective following the migration of a symbol to INET, the platform operated by Nasdaq, Inc. that will also operate the PIM.[11] Under this provision, if the Agency Order is for less than 50 option contracts, and if the difference between the NBBO is $0.01, the Crossing Transaction must be entered at one minimum price improvement increment better than the NBBO on the opposite side of the market from the Agency Order and better than the limit order or quote on the ISE Mercury order book on the same side of the Agency Order.

The Exchange will retain the current requirements for PIM eligibility in all other instances. Accordingly, if the Agency Order is for 50 option contracts or more or if the difference between the NBBO is greater than $0.01, the Crossing Transaction must be entered only at a price that is equal to or better than the NBBO and better than the limit order or quote on the ISE Mercury order book on the same side as the Agency Order.

The Exchange believes that these changes to PIM may provide additional opportunities for Agency Orders of fewer than 50 option contracts to receive price improvement over the NBBO where the difference in the NBBO is $0.01 and therefore encourage the increased submission of orders of under 50 option contracts.[12] The Exchange notes that the statistics for the current pilot, which include, among other things, price improvement for orders of fewer than 50 option contracts under the current Auction eligibility requirements, show relatively small amounts of price improvement for such orders.[13] ISE Mercury believes that the proposed requirements will therefore increase the price improvement that orders of fewer than 50 option contracts may receive in PIM.[14]

B. Pilot Program

Two components of the PIM were approved by the Commission on a pilot basis: (1) The early conclusion of the PIM; [15] and (2) no minimum size requirement of orders. The provisions were approved for a pilot period that currently expires on January 18, 2017.[16] The Exchange proposes to have the Pilot approved on a permanent basis.

During the Pilot period, the Exchange submitted certain data periodically as required by the Commission, to provide supporting evidence that, among other things, there is meaningful competition for all size orders, there is significant price improvement available through the PIM, and that there is an active and liquid market functioning on the Exchange outside of the Auction mechanism.[17]

1. No Minimum Size Requirement

Supplemental Material .03 to Rule 723 provides that, as part of the current Pilot, there will be no minimum size requirement for orders to be eligible for the Auction. The Exchange believes that the data gathered since the approval of the Pilot, which it discussed in the Notice, establishes that there is liquidity and competition both within the PIM and outside of the PIM, and that there are opportunities for significant price improvement within the PIM.[18]

The Exchange compiled price improvement data in orders from February through June 2016. For March 2016, where the order was on behalf of a Public Customer, the order was for 50 contracts or less, and ISE Mercury was at the NBBO, the most contracts traded (2,525) occurred when the spread was $0.03, with an average number of two participants.[19] All of these contracts

[7] *See* ISE Mercury Rule 723(b)(1).

[8] The Exchange notes that its indirect parent company, U.S. Exchange Holdings, Inc. has been acquired by Nasdaq, Inc. *See* Securities Exchange Act Release No. 78119 (June 21, 2016), 81 FR 41611 (June 27, 2016) (SR–ISEMercury–2016–10). Pursuant to this acquisition, ISE Mercury platforms are migrating to Nasdaq platforms, including the platform that operates PIM. ISE Mercury intends to retain the proposed member conduct standard requiring price improvement for options orders of under 50 contracts where the difference between the NBBO is $0.01 until the ISE Mercury platforms and the corresponding symbols are migrated to the platforms operated by Nasdaq, Inc. *See* Notice, *supra* note 3, at 91984 n.7.

[9] In a separate proposed rule change, ISE is proposing to adopt similar price improvement requirements for orders of fewer than 50 contracts for its PIM. As part of that rule change, ISE is proposing to amend ISE Rule 1614 (Imposition of Fines for Minor Rule Violations) to add Rule 1614(d)(4), which will provide that, beginning January 19, 2017, any member who enters an order into PIM for fewer than 50 contracts, while the National Best Bid or Offer spread is $0.01, must provide price improvement of at least one minimum price improvement increment better than the NBBO on the opposite side of the market from the Agency Order, which increment may not be smaller than $0.01. Failure to provide such price improvement will result in members being subject to the following fines: $500 for the second offense, $1,000 for the third offense, and $2,500 for the fourth offense. Subsequent offenses will subject the member to formal disciplinary action. ISE will review violations on a monthly cycle to assess these violations. The Commission notes that the ISE proposal was approved in conjunction with this proposal. *See* Securities Exchange Act Release No. 34–79829 (January 18, 2017) (SR–ISE–2016–29).

[10] *See* Notice, *supra* note 3, at 91984.

[11] *See id. See also* proposed ISE Mercury Rule 723(b).

[12] *See* Notice, *supra* note 3, at 91985.

[13] *See id.*

[14] *See id.*

[15] *See* ISE Mercury Rule 723(c)(5) and (d)(4).

[16] *See* PIM July 2016 Extension, *supra* note 6.

[17] *See* Supplementary Material .03 to ISE Mercury Rule 723.

[18] *See* Notice, *supra* note 3, at 91985–86. *See also* Exhibit 3 to SR–ISEMercury–2016–25.

[19] According to the Exchange, this discussion of March 2016 data is illustrative of data that was

Continued

received $0.01 price improvement. When the spread was $0.01 for this same category, a total of 734 contracts traded, with none of those contracts receiving price improvement.[20]

In comparison, where the order was on behalf of a Public Customer, the order was for greater than 50 contracts, and ISE Mercury was at the NBBO, the most contracts traded (934) occurred when the spread was $0.10 to $0.20. The greatest number of these contracts (429) received $0.05–$0.10 price improvement.[21]

In March 2016, where the order was on behalf of a Public Customer, the order was for 50 contracts or less, and ISE Mercury was not at the NBBO, the most contracts traded (3,772) occurred when the spread was $0.01. Of this category, the greatest number of contracts (3,722) received no price improvement, and 50 contracts received $0.01 price improvement.[22]

In comparison, in March 2016, where the order was on behalf of a Public Customer, the order was for greater than 50 contracts, and ISE Mercury was not at the NBBO, the most contracts traded (1,431) occurred when the spread was $0.02. Of these contracts, the greatest number of contracts (758) received no price improvement.[23]

ISE Mercury believes that the data gathered during the Pilot period indicates that there is meaningful competition in PIM auctions for all size orders, there is an active and liquid market functioning on the Exchange outside of the auction mechanism, and that there are opportunities for significant price improvement for orders executed through PIM.[24] The Exchange therefore has requested that the Commission approve the no-minimum size requirement on a permanent basis.

2. Early Conclusion of the PIM

Supplemental Material .05 to Rule 723 provides that Rule 723(c)(5) and Rule 723(d)(4), which relate to the termination of the exposure period by unrelated orders shall be part of the current Pilot. Rule 723(c)(5) provides that the exposure period will automatically terminate (i) at the end of the 500 millisecond period,[25] (ii) upon the receipt of a market or marketable limit order on the Exchange in the same series, or (iii) upon the receipt of a nonmarketable limit order in the same series on the same side of the market as the Agency Order that would cause the price of the Crossing Transaction to be outside of the best bid or offer on the Exchange. Rule 723(d)(4) provides that, when a market order or marketable limit order on the opposite side of the market from the Agency Order ends the exposure period, it will participate in the execution of the Agency Order at the price that is mid-way between the best counter-side interest and the NBBO, so that both the market or marketable limit order and the Agency Order receive price improvement. Transactions will be rounded, when necessary, to the $0.01 increment that favors the Agency Order.

As with the no minimum size requirement, the Exchange has gathered data on these three conditions to assess the effect of early PIM conclusions on the Pilot. For the period from January 2016 through June 2016, there were a total of 77 early terminated Auctions. The number of orders in early terminated PIM auctions constituted 0.35% of total PIM orders.[26] There were a total of 1,581 contracts that traded through early terminated Auctions. The number of contracts in early terminated PIM auctions represented 0.26% of total PIM contracts.[27]

Based on the data gathered during the Pilot, the Exchange does not anticipate that any of these conditions will occur with significant frequency, or will otherwise significantly affect the functioning of the PIM.[28] The Exchange therefore has requested that the Commission approve this aspect of the Pilot on a permanent basis.

III. 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 and, in particular, with Section 6(b) of the Act.[29] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[30] 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect customers, issuers, brokers and dealers.

As part of its proposal, the Exchange provided summary data on Exhibit 3 of its filing for the period January through June 2016, which the Exchange and Commission both publicly posted on their respective Web sites. Among other things, this data is useful in assessing the level of price improvement in the Auction, in particular for orders of fewer than 50 contracts; the degree of competition for order flow in such Auctions; and a comparison of liquidity in the Auctions with liquidity on the Exchange generally.[31] Based on the data provided by the Exchange, the Commission believes that the Exchange's price improvement auction generally delivers a meaningful opportunity for price improvement to orders, including orders for fewer than 50 contracts, when the spread in the option is $0.02 or more. At the same time, as the Exchange has recognized, the data do not demonstrate that such orders have realized significant price improvement when the NBBO has a bid/ask differential of $0.01.[32] Recognizing this, the Exchange has proposed to amend the Auction eligibility requirements to require the Initiating Participant to guarantee at least $0.01 of price improvement for Agency Orders of fewer than 50 contracts where the NBBO has a bid/ask differential of $0.01, whether or not the Exchange BBO is the same as the NBBO.

The Exchange's proposal to modify the Auction eligibility requirements for orders of fewer than 50 contracts and seek permanent approval of the Pilot, as amended with the new provision, will, in the Commission's view, promote opportunities for price improvement for such orders when the NBBO is $0.01 wide, while continuing to provide opportunities for price improvement when spreads are wider than $0.01.

In addition, the Commission has carefully evaluated the Pilot data and

gathered between February 2016 and July 2016. *See* Notice, *supra* note 3, at 91985 n.13. The complete underlying data for February 2016 through June 2016 was attached as Exhibit 3 to the Notice.

[20] *See* Notice, *supra* note 3, at 91985.

[21] *See id.*

[22] *See id.*

[23] *See id.*

[24] *See id.* at 91986.

[25] The Commission notes that, at the time of the filing of this proposal, the duration of the exposure period was 500 milliseconds. The Exchange recently received approval to modify the exposure period to a time period designated by the Exchange of no less than 100 milliseconds and no more than one second. *See* Securities Exchange Act Release No. 79731 (January 4, 2017), 82 FR 3058 (January 10, 2017) (SR–ISEMercury–2016–21).

[26] *See* Notice, *supra* note 3, at 91986.

[27] *See id.*

[28] *See id.*

[29] 15 U.S.C. 78f(b). 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).

[30] 15 U.S.C. 78f(b)(5).

[31] *See* Exhibit 3 to SR–ISEMercury–2016–25.

[32] *See* Notice, *supra* note 3, at 91985.

has determined that it would be beneficial to customers and to the options market as a whole to approve on a permanent basis the provisions concerning early conclusion of the PIM. The Commission notes that there have been few instances of early termination of the PIM.

The Commission believes that, particularly for Auctions for fewer than 50 contracts when the bid/ask differential is wider than $0.01, the data provided by the Exchange support its proposal to make the Pilot permanent. The data demonstrate that the Auction generally provides price improvement opportunities to orders, including orders of retail customers and particularly when the bid/ask differential is wider than $0.01; that there is meaningful competition for orders on the Exchange; and that there exists an active and liquid market functioning on the Exchange outside of the Auction.[33] The Commission further believes that the proposed revisions to the eligibility requirements for orders of fewer than 50 contracts with respect to circumstances when the NBBO is no more than $0.01 wide should help to enhance the operation of the Auction by providing meaningful opportunities for price improvement in such circumstances, and should benefit investors and others in a manner that is consistent with the Act.

The Commission further notes that, as discussed more fully above, ISE Mercury is initially proposing to implement is price improvement requirement for Agency Orders of fewer than 50 option contracts where the difference in the NBBO is $0.01 with a member conduct standard.[34] As described in greater detail above, ISE Mercury proposes to enforce this requirement under ISE Rule 1614(d)(4). The Commission believes that ISE Mercury's proposed member conduct standard and ISE Rule 1614(d)(4) are reasonable means to implement the price improvement requirement until implementation of its proposed systems-based mechanism for this requirement, which will become effective following the migration of a symbol to INET, the platform operated by Nasdaq, Inc. that will also operate the PIM. The Commission further notes that the Exchange has represented that its proposed member conduct standard will be effective until the migration of all symbols to the INET platform, which shall be no later than September 15, 2017.[35]

Thus, the Commission has determined to approve the Exchange's proposed revisions to ISE Mercury Rule 723(b) and Supplementary Material .03 and .05 to ISE Mercury Rule 723, and to approve the Pilot, as proposed to be modified, on a permanent basis.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[36] that the proposed rule change (SR–ISEMercury–2016–25), be and hereby is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[37]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–01619 Filed 1–24–17; 8:45 am]

BILLING CODE 8011–01–P

[33] *See* Exhibit 3 to SR–ISEMercury–2016–25.

[34] The Exchange stated that it will conduct electronic surveillance of the PIM to ensure that members comply with the proposed price improvement requirements for option orders of fewer than 50 contracts. *See* Notice, *supra* note 3, at 91284.

[35] *See* Notice, *supra* note 3, at 91284 & n.7.

[36] 15 U.S.C. 78s(b)(2).

[37] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79818; File No. SR–OCC–2017–001]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Concerning The Options Clearing Corporation's Margin Coverage During Times of Increased Volatility

January 18, 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 January 4, 2017, The Options Clearing Corporation (''OCC'') 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 OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

This proposed rule change by OCC would modify the current process for systematically monitoring market conditions and performing adjustments to its margin coverage when current market volatility increases beyond historically observed levels.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

OCC's margin methodology, the System for Theoretical Analysis and Numerical Simulations (''STANS''), is OCC's proprietary risk management system that calculates Clearing Members' [3] margin requirements.[4] STANS utilizes large-scale Monte Carlo simulations to forecast price movement and correlations in determining a Clearing Member's margin requirement.[5] The STANS margin requirement is a portfolio calculation at the level of Clearing Member legal entity marginable net positions tier account (tiers can be customer, firm, or market marker) and consists of an estimate of 99% 2-day expected shortfall and an add-on for model risk (the concentration/dependence stress test charge).

The majority of risk factors utilized in the STANS methodology are total returns on individual equity securities. Other risk factors considered include: returns on equity indices; changes in the calibrated coefficients of a model describing the yield curve for U.S. government securities; ''returns'' on the nearest-to-expiration futures contracts of various kinds; and changes in foreign exchange rates. For the volatility of each risk factor, the Monte Carlo simulations use the greater of: (i) The short-term volatility level predicted by the model; and (ii) an estimate of its longer-run level. In between the monthly re-estimations of all the models, volatilities are automatically re-scaled to the greater of the short-term or the longer-run levels

[3] *See* OCC By-Laws Article 1(C)(14).

[4] *See* Securities Exchange Act Release No. 53322 (February 15, 2006), 71 FR 9403 (February 23, 2006) (SR–OCC–2004–20). A detailed description of the STANS methodology is available at *http://optionsclearing.com/risk-management/margins/*.

[5] *See* OCC Rule 601.

to mitigate pro-cyclicality [6] in the margin levels. (This daily volatility measure is called the ''uniform scale factor.'') The uniform scale factor is a multiplier used in connection with STANS calculations to account for, among other things, the difference between short-term and long-term volatility forecasts for equities. It is specifically defined as the ratio of long-run volatility (10Y+) over short-run volatility (2Y). It is used to ''scale up'' the short-run volatility of the securities (*e.g.,* IBM) that are subject to monthly update, in order to estimate long-run volatility. It is also used to capture data gaps between monthly updates.

An approach employed by OCC to mitigate pro-cyclicality within STANS is to estimate market volatility based on current market conditions (''current market estimate'') and compare this current market estimate to a long-run estimate of market volatility (''long-run market estimate''). This comparison utilizes certain market benchmarks (or factors), which serve as proxies for the overall volatility of an asset class or group of products. If the long-run market estimate for a factor is found to be greater than the current market estimate, the volatility estimates for all products tied to that factor are adjusted (or scaled) up in a manner proportionate to the relationship between the current market volatility and the long-run market volatility for that factor.

Current STANS includes a single factor (''uniform scale factor''), which serves as the proxy for the equity asset class. This uniform scale factor is calibrated based on changes in the volatility of the Standard & Poor's 500® Index (''SPX'') and applied to all ''equity-based products'' in the manner described above. Currently, the uniform scale factor is the only scale factor used in STANS. The proposed change is intended to enhance the STANS margin calculations by providing for the capability to increase the number of scale factors used within STANS in cases where a more appropriate proxy has been identified for a particular asset class or group of products to measure the relationship between current vs. long-run market volatility.

Summary of the Proposed Changes

OCC proposes a number of enhancements to its STANS margin methodology that are designed to more accurately compute Clearing Member margin requirements to reflect the risk of Clearing Member portfolios. Specifically, OCC proposes to: (1) Adjust the longer-run volatility forecast used in OCC's computation of the uniform scale factor so that it would rely only on post-1957 price information (*i.e.,* price information since the introduction of the SPX) in order to more accurately account for the behavior of SPX returns only since the inception of the index; (2) expand the number of scale factors used for equity-based products to more accurately measure the relationship between current and long-run market volatility with proxies that correlate more closely to certain products carried within the equity asset class; (3) apply relevant scale factors to the greater of (i) the estimated variance of 1-day return scenarios or (ii) the historical variance of the daily return scenarios of a particular instrument, as a floor to mitigate procyclicality; and (4) implement processing changes that would update the statistical models for common factors related to Treasury securities on a daily basis. The proposed changes are discussed in more detail below.

OCC believes that the current approach to scale factors in STANS would be improved by providing the functionality to establish multiple scale factors intended to more accurately measure the relationship between current and long-run market volatility with proxies that correlate more closely to groups of products within an asset class (*e.g.,* Russell 1000 Index and Russell 1000 ETFs), which would enhance the accuracy of the margin requirements in STANS.[7] By incorporating this process to scale margin coverages when current market volatility exceeds historically heightened levels that have been established to mitigate pro-cyclicality, OCC's margin methodology is able to expeditiously respond to severe changes in market volatility and thus better protect the integrity of our financial markets.

Scale Factor for Equity-Based Products

Current Uniform Scale Factor for Equity-Based Products

The uniform scale factor for the SPX roughly represents the ratio of OCC's estimates of the long-run market volatility to the forecast market volatility determined by most recent 24-month daily historical returns.[8] To determine the estimate of current market volatility, OCC relies on daily pricing information for equity securities and exchange-traded funds over a twenty-four month period ending with the last day of the immediately preceding month. To populate this twenty-four month time series, OCC relies on external vendors, with which it maintains redundant relationships for resiliency,[9] to adjust the daily pricing information to account for corporate actions involving these securities. This daily pricing information is received from its vendor(s) after the close of each month, at which time OCC updates its twenty-four month time series adding the new month and dropping the last month of data. This process of updating the time series on a monthly basis is referred to as a ''pending'' time series due to the batch process used to update the time series. The long-run time series used by the uniform scale factor is updated on a daily basis (*i.e.,* non-pending update) with pricing information for the SPX dating back to January 1, 1946. OCC calculates the uniform scale factor each business day by comparing the current market volatility, using pending price updates to the long-run time series using non-pending, or current, market prices.

The uniform scale factor is applied to all equity products and is used to adjust individual equity current market volatility estimates on a daily basis based on the comparison of the current market volatility and the long-run volatility estimate, which is updated daily. Should it be observed that the current market volatility is less than the long-run volatility, all products tied to the uniform scale factor will be adjusted higher based on the ratio of the long-run volatility estimate to the current market volatility estimate to account for the observed change in volatility. In addition, the uniform scale factor is also used to account for the fact that the distribution of returns for the SPX has a ''fat tail'' [10] because the scale factor

[6] A quality that is positively correlated with the overall state of the economy is deemed to be pro-cyclical.

[7] In this case, accuracy is measured against backtesting results. Pursuant to OCC's Model Risk Management Policy, an accurate 99% value-at-risk model should expect exceedances at a rate of 1% per independent trial. If the exceedance rate is too high, the model is missing key risks; if the exceedance rate is too low, the model is not consistent with the organization's risk appetite. To the extent that the conditional variances of not all relevant risk factors move in lock-step to the conditional variance of SPX, multiple scale factors offers the opportunity to be more accurate.

[8] The uniform scale factor has been a part of STANS since it was installed in 2006. *See* Securities Exchange Act Release No. 53322 (February 15, 2006), 71 FR 9403 (February 23, 2006) (SR–OCC–2004–20).

[9] Specifically, OCC maintains both a primary and backup data center that receive live price feeds from multiple price vendors. In the event of service disruption OCC is able to transition to an alternate data center and/or pricing vendor, as applicable.

[10] A fat-tailed distribution is a probability distribution that exhibits large skewness or kurtosis. Compared with a standard normal distribution or

seeks to match estimates of expected margin shortfalls under the scenarios in STANS for a hypothetical long position in the SPX.

The uniform scale factor resulting from the calculations described above is applied as a multiplier to hypothetical returns on a long portfolio of equities produced during the Monte Carlo market scenarios run within STANS. By ''scaling up'' hypothetical returns in this way, the uniform scale factor relies on an assumption that more recent behavior of SPX returns will provide an appropriate proxy for the volatility in equity price returns that occur between monthly updates of price data for the pending short-run time series. Accordingly, the uniform scale factor helps OCC set margin requirements that account for this proxy to ensure that Clearing Members maintain margin assets that would be sufficient in light of historical volatility of the SPX.

Proposed Changes to the Uniform Scale Factor for Equity-Based Products

The average longer-run volatility forecast used in OCC's computation of the uniform scale factor currently relies on daily pricing information for component securities of the SPX dating back to January of 1946. This time series predates, however, the 1957 introduction of the SPX. To accurately account for the behavior of SPX returns only since the inception of the index, OCC proposes to adjust the longer-run volatility forecast so that it would rely only on the post-1957 information. OCC believes that this approach would reduce model risk [11] and improve the quality of the data by avoiding the need to make assumptions related to the composition of the index before its actual development.[12]

Proposed New Scale Factors for Equity-Based Products

To more accurately measure the relationship between current and long-run market volatility with proxies that correlate more closely to certain products carried within the equity asset class, OCC proposes to expand the number of scale factors to include: (1) Russell 2000® Index (12/29/1978); (2) Dow Jones Industrial Average Index (9/23/1997); (3) NASDAQ–100 Index (2/4/1985) and (4) S&P 100 Index (1/2/1976).[13] While the SPX scale factor will continue to serve as the default scale factor for most equity products, the index options, futures and ETFs which map to these indexes will be assigned to these scale factors and whose current volatility estimates will be adjusted based on the aforementioned methodology.

Consistent with OCC's existing Margin Policy,[14] OCC will evaluate the performance and use of these scale factors and determine if changes to the mapping of products to scale factors or the addition of new scale factors are warranted. Prior to any changes being implemented OCC would present its findings to the Enterprise Risk Management Committee and obtain approval to make the recommended enhancements.

Proposed Anti-Procyclical Measure for Equity-Based Scale Factors

In order to mitigate against pro-cyclicality, OCC intends to apply the relevant scale factor to the greater of (i) the estimated variance of the 1-day return scenarios or (ii) the historical variance of the daily return scenarios of a particular instrument, as a floor. OCC believes this floor would mitigate pro-cyclicality in the relevant return scenarios because it would result in a higher estimate of volatility during periods of relatively lower market volatility than if only the estimated variance in (i) above was used.

Proposed Daily Statistical Updates for the Treasury Yield Curve Model

In addition to implementing the scale factors described above, OCC is also proposing to implement processing changes that would update the statistical models for common factors related to Treasury securities on a daily basis. These model changes would allow OCC to monitor and respond to material changes in the volatility of Treasury securities while also mitigating pro-cyclicality without implementing a scale factor specific to Treasury securities. OCC believes that updating its Treasury securities models on a daily basis is a more appropriate way to monitor and respond to material changes in the volatility of Treasury securities while also mitigating pro-cyclicality since the Treasury yield curve model is relatively less complex, with only three factors, and the structure of the Treasuries securities model does not lend itself to a returns-based scale factor (as is used with equity and volatility derivatives, as described above).

Specifically, OCC is proposing to enhance its existing yield curve model that OCC uses to project U.S. Treasury security returns, which is updated monthly. The model contains underlying data set and time series information for Treasury securities, which run from February 4, 2008 (based on available historical data) and, after implementing the proposed enhancements, the model would be updated on a daily basis as new data and time series information becomes available. The proposed enhancements would promote a more accurate approach to margining within STANS, as it relates to Treasury securities, particularly when markets are volatile because the daily statistical updates would prevent the model from becoming stale between monthly updates.

Impact Analysis and Outreach

Based on simulation testing for the period from January 14, 2015, to March 6, 2015, risk margins (*i.e.,* expected shortfall plus the concentration/dependence add-on) would have been approximately 5.2% higher in aggregate as a consequence of these changes. This is mostly due to higher coverage for the Russell 2000 Index and index ETF products under the new methodology.

In order to inform Clearing Members of the proposed change, OCC provided a general update at a recent OCC Roundtable [15] meeting and would continue to provide updates at Roundtable meetings on a quarterly basis going forward. In addition, OCC would publish an Information Memorandum to all Clearing Members describing the proposed change and will provide additional periodic Information Memoranda updates prior to the implementation date. OCC would also provide at least thirty days prior notice to Clearing Members before implementing the change. Additionally, OCC would perform targeted and direct outreach with Clearing Members that

bell curve, it has a higher probability of occurrence of extreme events.

[11] OCC defines ''model risk'' as the potential for adverse consequences of incorrect or misused model outputs and reports.

[12] As defined in OCC's Model Risk Management Policy, Model Risk, in the sense of material exposure to the consequences of poor assumptions, is reduced by making models adhere accurately to observed phenomena. In this case, by reducing the role of the uniform scale factor as a proxy between monthly updates of univariate models for risk factors and by allowing certain risk factors to bypass the monthly update process, as described below, OCC believes that this proposed change would reduce model risk.

[13] The dates in parentheticals are the dates from which OCC has historical data on the specified index.

[14] OCC's Margin Policy describes OCC's approach to prudently managing market and credit exposures presented by its Clearing Members.

[15] The OCC Roundtable was established to bring Clearing Members, exchanges and OCC together to discuss industry and operational issues. It is comprised of representatives of the senior OCC staff, participant exchanges and Clearing Members, representing the diversity of OCC's membership in industry segments, OCC-cleared volume, business type, operational structure and geography.

would be most impacted by the proposed change and OCC would work closely with such Clearing Members to coordinate the implementation and associated funding for such Clearing Members resulting from the proposed change.[16] Finally, OCC would discuss the proposed change with its cross-margin clearing house partners to ensure they are aware of the proposed change.[17]

2. Statutory Basis

OCC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act[18] because it would assure the safeguarding of securities and funds in the custody and control of OCC by enhancing the current approach for monitoring market conditions and performing adjustments to OCC's margin coverage on equity and Treasury-based products for which OCC provides clearance and settlement services when current volatility increase beyond historically observed levels. OCC uses the margin it collects from a defaulting Clearing Member to protect other Clearing Members from loss as a result of the defaulting Clearing Member. By more accurately computing Clearing Member margin requirements OCC can assure the safeguarding of securities and funds in its custody and control.

The proposed model changes described above would enhance the manner in which OCC computes margin requirements for Clearing Members. Specifically, the proposed changes to the uniform scale factor for equity-based products to rely only on post-1957 information would reduce model risk and improve the quality of data by avoiding unnecessary assumptions related to the composition of the SPX before its inception. The proposed four new scale factors for equity-based products would more accurately measure the relationship between current and long-run market volatility with proxies that are correlated more closely to certain products within the equity asset class. The proposed daily statistical updates for the Treasury yield curve model would allow OCC to monitor and respond to material changes in the volatility of Treasury securities while also mitigating pro-cyclicality. Taken together, the changes to the uniform scale factor, the addition of new equity-based scale factors, and the introduction of daily statistical updates for the Treasury yield curve model would cause STANS to more accurately compute Clearing Member margin requirements to reflect the risk of Clearing Member portfolios thereby reducing the risk that Clearing Member margin assets would be insufficient should OCC need to use such assets to close-out the positions of a defaulted Clearing Member. Further, the proposed rule change would make it less likely that the default of a Clearing Member would stress the financial resources available to OCC, which include mutualized resource funds deposited by non-defaulting Clearing Members as Clearing Fund.

OCC believes that the proposed rule change is also consistent with Rule 17Ad–22(b)(2)[19] because it would limit OCC's credit exposures to its participants under normal market conditions and use risk-based models and parameters to set OCC's margin requirements. As described above, the risk-based model and parameter changes to the uniform scale factor, the addition of new equity-based scale factors, and the introduction of daily statistical updates for the Treasury yield curve model cause STANS to more accurately compute Clearing Member margin requirements. By more accurately computing Clearing Member margin requirements, OCC reduces its credit exposure to its Clearing Members.

The proposed rule changes are not inconsistent with the existing rules of OCC, including any other rules proposed to be amended.

(B) Clearing Agency's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impact or impose any burden on competition.[20] The proposed rule change would allow OCC to adjust Clearing Member margin requirements when current volatility increases beyond historical levels. While as a result of the proposed rule change Clearing Members may experience daily margin fluctuations of up to ten percent, such fluctuations are equal in amount to fluctuations Clearing Members typically experience as a result of changes in market price, volatility or interest rates. Therefore, OCC believes that the proposed rule change would not unfairly inhibit access to OCC's services or disadvantage or favor any particular user in relationship to another user. In addition, the proposed rule change would be applied uniformly to all Clearing Members in establishing their margin requirements.

For the foregoing reasons, OCC believes that the proposed rule change is in the public interest, would be consistent with the requirements of the Act applicable to clearing agencies, and would not impact or impose a burden on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change and none have been received

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self- regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–OCC–2017–001 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–OCC–2017–001. 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

[16] Specifically, OCC will discuss with those Clearing Members how they plan to satisfy any increase in their margin requirements associated with the proposed change.

[17] Cross-margin accounts are not uniquely affected by the proposed change and would be affected by the proposed change in the same manner as any other type of OCC account.

[18] 15 U.S.C. 78q–1(b)(3)(F).

[19] 17 CFR 240.17Ad–22(b)(2).

[20] 15 U.S.C. 78q–1(b)(3)(I).

Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at *http://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_17_001.pdf*.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–OCC–2017–001 and should be submitted on or before February 15, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated Authority.[21]

Eduardo A. Aleman,

Assistant Secretary.

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BILLING CODE 8011–01–P

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79836; File No. SR–CBOE–2016–084]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Amendment No. 1, and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Exchange Rules Related to the Automated Improvement Mechanism

January 18, 2017.

I. Introduction

On November 29, 2016, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (''Commission''), pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to make permanent make permanent those aspects of its Automated Improvement Mechanism (''AIM'' or ''Auction'') that are currently operating on a pilot basis. The proposed rule change was published for comment in the **Federal Register** on December 13, 2016.[3] The Commission received no comments regarding the proposal. On January 6, 2017, the Exchange filed Amendment No. 1 to the proposed rule change.[4] The Commission is publishing this notice to solicit comments on Amendment No. 1 from interested persons, and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Proposal

AIM exposes certain orders electronically to an auction process to provide these orders with the opportunity to receive an execution at an improved price.[5] In addition, the AIM auction process for FLEX Options (''FLEX AIM'') exposes certain FLEX Options orders electronically to an auction process to provide these orders with the opportunity to receive an execution at an improved price.[6] The AIM and FLEX AIM auctions are available only for orders that a Trading Permit Holder represents as agent (''Agency Order'') and for which a second order of the same size as the Agency Order (and on the opposite side of the market) is also submitted (effectively stopping the Agency Order at a given price).

Three components of AIM were approved by the Commission on a pilot basis (the ''Pilot''): (1) That there is no minimum size requirement for orders to be eligible for the AIM; (2) that the AIM will conclude prematurely anytime there is a quote lock on the Exchange pursuant to Rule 6.45A(d);[7] and (3) that there is no minimum size requirement for orders to be eligible for the FLEX AIM.[8] In connection with the Pilot, the Exchange has provided certain data to the Commission to provide supporting evidence that, among other things, there is meaningful competition for all size orders and that there is an active and liquid market functioning on the Exchange outside of the AIM.[9] The Pilot is currently set to expire on January 18, 2017.[10] The Exchange proposes to make the Pilot permanent.

A. No Minimum Size Requirement Pilot

In support of its proposal, and in addition to data submitted to the Commission on a monthly and confidential basis since the Pilot's inception, the Exchange has provided the Commission with data for AIM executions from January through June 2015 (the ''Report'').[11] The Exchange believes the data provides evidence that AIM offers meaningful competition for all size orders and that there is an active and liquid market functioning on the Exchange outside of AIM.[12] The Exchange further notes that the data provided in the Report demonstrates the price improvement benefits of AIM.[13] According to the Exchange, approving the no minimum size pilot on a permanent basis will allow AIM to continue to offer meaningful price improvement and will not have an adverse effect on the market functioning on the Exchange outside of AIM.[14]

Specifically, the Report contains eight categories of non-customer and customer auction data, as well as three categories of summary auction data, during the period from January through

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 79499 (December 7, 2016), 81 FR 90012 (''Notice'').

[4] In Amendment No. 1, the Exchange described additional data relating to complex orders submitted through AIM and provided additional support for its proposal to approve the aspects of AIM currently operating on a pilot basis as applicable to complex orders. To promote transparency of its proposed amendment, when CBOE filed Amendment No. 1 with the Commission, it also submitted Amendment No. 1 as a comment letter to the file, which the Commission posted on its Web site and placed in the public comment file for SR–CBOE–2016–084 (available at *https://www.sec.gov/comments/sr-cboe-2016-084/cboe2016084-1475098-130456.pdf*). The Exchange also posted a copy of its Amendment No. 1 on its Web site (*http://www.cboe.com/aboutcboe/legal/submittedsecfilings.aspx*), when it filed it with the Commission.

[5] *See* CBOE Rule 6.74A. *See also* Securities Exchange Release No. 53222 (February 3, 2006), 71 FR 7089 (February 10, 2006) (SR–CBOE–2005–60) (''AIM Approval Order'').

[6] *See* Securities Exchange Release No. 66702 (March 30, 2012), 77 FR 20675 (April 5, 2012) (SR–CBOE–2011–123) (''FLEX AIM Approval Order'').

[7] A quote lock occurs when a CBOE Market-Maker's quote interacts with the quote of another CBOE Market-Maker (*i.e.,* when internal quotes lock).

[8] The pilot for the FLEX AIM auction process was modeled after the pilot for non-FLEX Options. *See* FLEX AIM Approval Order, *supra* note 6.

[9] *See* Interpretation and Policy .03 to CBOE Rule 6.74A and Interpretation and Policy .03 to CBOE Rule 24B.5A.

[10] *See* Securities Exchange Act Release No. 78316 (July 13, 2016) 81 FR 46975 (July 19, 2016) (SR–CBOE–2016–056).

[11] *See* Exhibit 3 to SR–CBOE–2016–084.

[12] *See* Notice, *supra* note 3, at 90013–14.

[13] *See id.* The Commission notes that AIM currently requires price improvement for Agency Orders of fewer than 50 contracts. *See* CBOE Rule 6.74A(a)(3).

[14] *See* Notice, *supra* note 3, at 90014.

June 2015.[15] Each of the eight categories is divided into subcategories based on the spread of the National Best Bid or Offer (''NBBO'') at the time an Auction was initiated. The data is further divided into the number of orders that were auctioned within each particular subcategory. Finally, for each subcategory, the Exchange identified the per contract price improvement that occurred at each NBBO spread, the average number of participants responding to the Auctions plus the initiator, the total volume the initiator received, the average percentage of orders the initiator received, and the percentage of contracts received by the Auction initiator.

The summary of all Auctions demonstrates that AIM offers competition and price improvement because the vast majority of contracts traded via AIM received price improvement beyond the NBBO. Specifically, with regards to Customer AIM auctions, of the 54,243,091 contracts traded via AIM during the Report period, 41,278,408 contracts received price improvement beyond the NBBO.[16] In addition, of the 54,504,717 total contracts traded via AIM during the Report period, 41,514,731 contracts received price improvement beyond the NBBO.[17]

For complex orders that are otherwise eligible for AIM,[18] the AIM eligibility requirements of CBOE Rule 6.74A(a) apply in the same manner as they apply for simple orders. Thus, a complex order may be executed via AIM at a net debit or net credit price provided, for example, that an Agency Order that is a complex order of 50 contracts or more (as determined by the size of the smallest leg) is stopped at the better of the NBBO or the Agency Order's limit price (if the order is a limit order).[19] Similarly, a complex order of fewer than 50 contracts (as determined by the size of the smallest leg) may be executed via AIM at a net debit or net credit price provided that the Agency Order is stopped at the better of (A) the NBBO price improved by one minimum price improvement increment, which increment shall be determined by the Exchange but may not be smaller than one cent; or (B) the Agency Order's limit price (if the order is a limit order).[20]

In September 2016, there were 5,982 complex orders processed via AIM with an order size of 50 contracts or more (as determined by the size of the smallest leg), and there were 214,986 complex orders processed via AIM with an order size of fewer than 50 contracts (as determined by the size of the smallest leg).[21] With regards to having no minimum size requirement for orders to be eligible for the Auction, the Exchange believes small complex orders benefit from the price improvement offered by AIM in the same manner that small simple orders benefit from the price improvement offered by AIM, and that it is therefore appropriate to approve the no minimum size pilot on a permanent basis.[22] The Exchange believes that, in addition to the simple order market, the complex order market both within and outside of AIM is robust, and therefore it is appropriate to approve the no minimum size pilot on a permanent basis.

B. Early Conclusion of the AIM

CBOE Rule 6.74A(b)(2)(E) provides that the AIM will conclude prematurely anytime there is a quote lock on the Exchange pursuant to CBOE Rule 6.45A(d). This condition is operating as part of the current Pilot.[23]

As with the no minimum size requirement, the Exchange has gathered data on the number of times an AIM auction was terminated early because of a quote lock on the Exchange pursuant to CBOE Rule 6.45A(d). From January through June 2015, for example, there were less than two Auctions ended early per month because of a quote lock. Thus, for both simple and complex orders, due to the infrequency with which a quote lock terminates an AIM auction, the Exchange believes permanent approval of the pilot program to end AIM auctions early when there is a quote lock on the Exchange will have a *de minimis* impact on the marketplace.[24]

C. FLEX AIM Pilot

Currently, in order to initiate a FLEX AIM auction, the initiating Trading Permit Holder must stop the entire Agency Order as principal or with a solicited order at the better of the BBO or the Agency Order's limit price. For purposes of CBOE Chapter XXIVB, the term ''BBO'' means the best bid or offer, or both, as applicable, entered in response to a Request for Quotes (''RFQ'') or resting in the electronic book.[25] According to the Exchange, generally speaking, there is no existing BBO prior to a FLEX AIM because there either has not been an RFQ or a FLEX Order with the same terms as the order to be auctioned in FLEX AIM.[26] Therefore, the Exchange notes, the data does not show observable price improvement beyond the BBO because, generally speaking, no BBO exists prior to a FLEX AIM.[27] The Exchange has proposed to modify its FLEX AIM rules to require the Agency Order to be stopped at the better of the BBO price improved by one minimum price increment or the Agency Order's limit price, although the Exchange does not believe there will be any difference in the way FLEX AIM functions. The Exchange notes that there likely will continue to be no BBO prior to a FLEX AIM; however, the Exchange believes FLEX AIM will continue to offer the possibility for price improvement beyond the initiator's stop price.[28]

[15] *See* Exhibit 3 to SR–CBOE–2016–084. The various categories contained in the Report include: (1) Non-Customer Auction/Under 50 Contracts/CBOE not at NBBO; (2) Non-Customer Auction/Under 50 Contracts/CBOE at NBBO; (3) Non-Customer Auction/50 Contracts and over/CBOE not at NBBO; (4) Non-Customer Auction/50 Contracts and over/CBOE at NBBO; (5) Customer Auction/Under 50 Contracts/CBOE not at NBBO; (6) Customer Auction/Under 50 Contracts/CBOE at NBBO; (7) Customer Auction/50 Contracts and over/CBOE not at NBBO; (8) Customer Auction/50 Contracts and over/CBOE at NBBO; (9) Summary of all Non-Customer Auctions for the Period; (10) Summary of all Customer Auctions for the Period; and (11) Summary of all Auctions for the Period.

[16] *See* Exhibit 3 to SR–CBOE–2016–084.

[17] *See id.*

[18] A ''complex order'' is any order involving the execution of two or more different options series in the same underlying security occurring at or near the same time in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) (or such lower ratio as may be determined by the Exchange on a class-by-class basis) and for the purpose of executing a particular investment strategy. For the purpose of applying the aforementioned ratios to complex orders comprised of both mini-option contracts and standard option contracts, ten (10) mini-option contracts will represent one (1) standard option contract. Only those complex orders with no more than the applicable number of legs, as determined by the Exchange on a class-by-class basis, are eligible for processing. *See* CBOE Rule 6.53C(a)(1).

[19] *See* CBOE Rule 6.74A(a)(2).

[20] *See* CBOE Rule 6.74A(a)(3). The Commission notes that, as with simple orders, AIM currently requires price improvement for complex Agency Orders where the smallest leg is fewer than 50 contracts.

[21] *See* Amendment No. 1.

[22] *See id.*

[23] *See* Interpretation and Policy .06 to CBOE Rule 6.74A.

[24] *See* Notice, *supra* note 3, at 90014. *See also* Amendment No. 1. The Exchange further notes that modifying the ''Quote Lock'' timer, which allows quotes from two or more CBOE Market-Makers to remain locked for a given time interval prior to trading with one another, will not impact AIM. *See* CBOE Rule 6.45A(d)(i)(B) and RG16–158.

[25] *See* CBOE Rule 24B.1(a). RFQ is defined as the initial request supplied by a Submitting Trading Permit Holder to initiate FLEX bidding and offering. *See* CBOE Rule 24B.1(r).

[26] FLEX Order is defined as (i) FLEX bids and offers entered by FLEX Market-Makers and (ii) orders to purchase and orders to sell FLEX Options entered by FLEX Traders, in each case into the electronic book. *See* CBOE Rule 24B.1(j).

[27] *See* Notice, *supra* note 3, at 90014.

[28] *See id.*

III. 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 and, in particular, with Section 6(b) of the Act.[29] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[30] 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect customers, issuers, brokers and dealers.

As part of its proposal, the Exchange provided summary data on Exhibit 3 of its filing for the period January through June 2015, which the Exchange and Commission both publicly posted on their respective Web sites. Among other things, this data is useful in assessing the level of price improvement in the Auction, in particular for orders of fewer than 50 contracts; the degree of competition for order flow in such Auctions; and a comparison of liquidity in the Auctions with liquidity on the Exchange generally.[31] Based on the data provided by the Exchange, the Commission believes that the Exchange's price improvement auction generally delivers a meaningful opportunity for price improvement to orders, including orders for fewer than 50 contracts. In addition, the Commission notes that AIM currently requires price improvement for Agency Orders of fewer than 50 contracts.[32] The Commission further believes that the Exchange's proposed modification to the FLEX AIM to require the Agency Order to be stopped at the better of the BBO price improved by one minimum price increment or the Agency Order's limit price will better align the FLEX AIM auction rules with those applicable to standard AIM auctions and will provide price improvement for additional FLEX AIM orders.

The Commission believes that the data provided by the Exchange support its proposal to make the Pilot permanent. The data demonstrate that the Auction generally provides price improvement opportunities to orders, including orders of retail customers; that there is meaningful competition for orders on the Exchange; and that there exists an active and liquid market functioning on the Exchange outside of the Auction.[33] Thus, the Commission has determined to approve the Exchange's proposed revisions to Interpretations and Policies .03 and .06 to Rule 6.74A, Rule 24B.5A(a)(2), and Interpretations and Policies .03 to Rule 24B.5A, and to approve the Pilot, as proposed to be modified, on a permanent basis.

IV. Solicitation of Comments on Amendment No. 1

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 1 is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2016–084 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2016–084. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2016–084 and should be submitted on or before February 15, 2017.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the 30th day after the date of publication of the notice of Amendment No. 1 in the **Federal Register**. As noted above, in Amendment No. 1, the Exchange described additional data relating to complex orders submitted through AIM and provided further support for its proposal to approve the aspects of AIM currently operating on a pilot basis as applicable to complex orders. Because Amendment No. 1 provides additional support for the Exchange's original proposal and does not make any substantive changes to the proposal, the Commission believes that good cause exists for accelerated approval of the proposed rule change, as modified by Amendment No. 1. The Commission further notes that the original proposal was subject to a 21 day comment period and no comments were received on the proposal. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[34] to approve the proposed rule change prior to the 30th day after the date of publication of the notice of Amendment No. 1 in the **Federal Register**.

VI. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,[35] that the proposed rule change (SR–CBOE–2016–084), as modified by Amendment No. 1, be and hereby is approved on an accelerated basis.

[29] 15 U.S.C. 78f(b). 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).

[30] 15 U.S.C. 78f(b)(5).

[31] *See* Exhibit 3 to SR–CBOE–2016–084.

[32] *See* CBOE Rule 6.74A(a)(3).

[33] *See* Exhibit 3 to SR–CBOE–2016–084.

[34] 15 U.S.C. 78s(b)(2).

[35] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–01614 Filed 1–24–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79838; File No. SR–BatsEDGX–2017–05]

Self-Regulatory Organizations; Bats EDGX Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change to EDGX Rule 21.19, Bats Auction Mechanism, as it Applies to the Equity Options Platform

January 18, 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 January 13, 2017, Bats EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and, for the reasons discussed below, is approving the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal for the Exchange's equity options platform (''EDGX Options'') concerning a price improvement mechanism operated by EDGX Options, the Bats Auction Mechanism (''BAM'' or ''BAM Auction''), which was recently approved by the Commission.[3] A specific aspect of BAM is currently operating on a pilot basis (''Pilot''), which is set to expire on January 18, 2017.[4] The Pilot concerns the fact that there is no minimum size requirement for orders to be eligible for a BAM Auction, as described below. The Exchange seeks to make the Pilot permanent but does not propose any other changes to BAM.

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 III below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to make permanent an aspect of BAM that is operating as a Pilot by removing Interpretation and Policy .05 from Rule 21.19.

Background

The Exchange proposed BAM in September of 2016 as a price improvement mechanism on the Exchange.[5] The Proposal was amended by the Exchange on December 15, 2016,[6] and approved, as amended, on January 3, 2017.[7] BAM Auctions were launched on the Exchange effective January 4, 2017. BAM includes functionality in which a Member (an ''Initiating Member'') may electronically submit for execution an order it represents as agent on behalf of a Priority Customer,[8] broker dealer, or any other person or entity (''Agency Order'') against principal interest or against any other order it represents as agent (an ''Initiating Order'') provided it submits the Agency Order for electronic execution into the BAM Auction pursuant Rule 21.19. All options traded on EDGX Options are eligible for BAM.

Pilot Program

One component of BAM as approved by the Commission is currently operating as a Pilot, which is set to expire on January 18, 2017. The Pilot concerns that there is no minimum size requirement for orders to be eligible for a BAM Auction. The Exchange now seeks to remove Interpretation and Policy .05 from Rule 21.19 so that the Pilot may operate on a permanent basis.

Pursuant to the Pilot, there is no minimum size requirement for orders to be eligible for a BAM Auction. During this Pilot, the Exchange agreed to submit certain data, periodically as required by the Commission, to provide supporting evidence that, among other things, there is meaningful competition for all size orders and that there is an active and liquid market functioning on the Exchange outside of the Auction mechanism. The Exchange proposed to adopt this provision on a pilot basis based on the fact that multiple other options exchanges have a similar provision with respect to their own price improvement mechanisms and such provisions have been operating on a pilot basis.[9] Although the Exchange only recently launched BAM and does not yet have meaningful data to analyze pursuant to the Pilot, the Exchange is proposing to make the Pilot permanent based on the recent filings by multiple other options exchanges to make analogous provisions permanent.[10] The

[36] 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. 79718 (January 3, 2017) (SR–BatsEDGX–2016–41).

[4] *See id.*

[5] *See* Securities Exchange Act Release No. 78988 (September 29, 2016), 81 FR 69172 (October 5, 2016) (SR–BatsEDGX–2016–41) (''Proposal'').

[6] *See supra,* note 3; *see also* SR–BatsEDGX–2016–41 Amendment No. 1, available at: *http://www.bats.com/us/options/regulation/rule_filings/edgx/.*

[7] *See supra,* note 3.

[8] The term ''Priority Customer'' means any person or entity that is not: (A) A broker or dealer in securities; or (B) a Professional. The term ''Priority Customer Order'' means an order for the account of a Priority Customer. *See* Rule 16.1(a)(45). A ''Professional'' is any person or entity that: (A) is not a broker or dealer in securities; and (B) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). All Professional orders shall be appropriately marked by Options Members. *See* Rule 16.1(a)(46).

[9] *See, e.g.,* Securities Exchange Act Release Nos. 53222 (February 3, 2006), 71 FR 7089 (February 10, 2006) (SR–CBOE–2005–60) (order approving the CBOE AIM price improvement mechanism, including that there is no minimum size requirement on a pilot basis); 73590 (November 13, 2014), 79 FR 68919 (November 19, 2014) (SR–MIAX–2014–56) (order approving the MIAX PRIME price improvement mechanism, including that there is no minimum size requirement on a pilot basis); 76301 (October 29, 2015), 80 FR 68347 (November 4, 2015) (SR–BX–2015–032) (order approving the NASDAQ BX PRISM price improvement mechanism, including that there is no minimum size requirement on a pilot basis).

[10] *See, e.g.,* Securities Exchange Act Release Nos. 79499 (December 7 2016), 81 FR 90012 (December 13, 2016) (SR–CBOE–2016–084) (proposal to modify the CBOE AIM price improvement mechanism including the proposal to make the process permanent, specifically that there is no minimum size requirement); 79500 (December 7, 2016), 81 FR 90030 (December 13, 2016) (SR–MIAX–2016–46) (proposal to modify the MIAX PRIME price improvement mechanism including the proposal to make the process permanent, specifically that there is no minimum size requirement); 79465 (December 5, 2016), 81 FR 79465 [sic] (December 9, 2016) (SR–BX–2016–063) (proposal to modify certain aspects of the NASDAQ BX PRISM price improvement mechanism including the proposal to make the process

Exchange believes that BAM is sufficiently similar to these processes that there is no need to continue the Pilot in light of the recent filings to operate similar processes on a permanent basis. In particular, based on the rules discussed in additional detail below as well as the results of similar mechanisms operated by several other options exchanges, the Exchange believes that there will be meaningful competition in BAM for auctions of all sizes, that there will continue to be an active and liquid market functioning on the Exchange outside of the auction mechanism, and that there will be opportunities for price improvement for orders executed through BAM.

The Exchange believes BAM process will promote meaningful competition because it is open to all Members of the Exchange and, thus, all Members will have an equal opportunity to respond with their best prices during a BAM Auction. Since the Exchange considers all interest present in the Exchange's system, and not solely BAM responses, for execution against Agency Orders, those participants who are not explicit responders to a BAM Auction will expect executions via BAM as well.[11] Further, once an Initiating Member has submitted an Agency Order for processing in a BAM Auction, such Agency Order may not be modified or cancelled.[12] In addition, the Exchange believes there will be meaningful competition because an Initiating Order may not be a solicited order for the account of any market maker on EDGX Options (''Options Market Maker'') assigned in the affected series on the Exchange.[13] Thus, such Options Market Makers assigned in the affected series will presumably be actively quoting in such series, and participate in BAM as unrelated orders, and/or will be responding to BAM Auctions in such series.

Similarly, the Exchange believes there will continue to be an active and liquid market functioning on the Exchange outside of the auction mechanism for the same reason noted above, namely that an Initiating Order may not be a solicited order for the account of an Options Market Maker.[14] In addition, resting quotes and orders that were at a price that is equal to the NBBO on the opposite side of the market from the Agency Order (''Priority Orders'') would have priority up to their size in the NBBO at the time an Auction is initiated (''Initial NBBO'') at each price level at or better than such Initial NBBO after Priority Customer and the Initiating Member have received allocations.[15] Thus, the concept of Priority Orders is intended to incentivize active participation on the EDGX Options order book outside of BAM Auctions.

Finally, the Exchange believes that there will be opportunities for price improvement for orders executed through BAM, including for smaller sized Agency Orders when the difference between the NBB and NBO is $0.01. Pursuant to BAM, if any Agency Order is for less than 50 option contracts and the difference between the NBB and NBO is $0.01, the Initiating Member must stop the entire Agency Order at one minimum price improvement increment better than the NBBO, which increment shall be determined by the Exchange but may not be smaller than $0.01.[16] Thus, even for an Agency Order that may be less likely to receive price improvement as compared to other Agency Orders, namely a smaller order when the spread is one penny wide, the rules of BAM require that such order will receive price improvement.

Based on the foregoing, the Exchange believes it is appropriate to continue the no minimum size requirement on a permanent basis.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[17] In particular, the proposal is consistent with Section 6(b)(5) of the Act[18] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system.

Specifically, the Exchange believes that BAM, including the Pilot, results in increased liquidity available at improved prices, with competitive final pricing out of the Initiating Member's complete control. The Exchange believes that BAM promotes and fosters competition and affords the opportunity for price improvement to more options contracts. The Exchange believes that allowing BAM to continue without a minimum size requirement is consistent with the Act based on similar pilots operated by other options exchanges with respect to similar price improvement mechanisms and the recent filings to operate such mechanisms and certain aspects thereof on a permanent basis.[19] In addition, the Exchange believes that the rules governing BAM, as adopted, will ensure: (i) That there is meaningful competition in BAM for auctions of all sizes;[20] (ii) that there continues to be an active and liquid market functioning on the Exchange outside of the auction mechanism;[21] and (iii) that there will be opportunities for price improvement for orders executed through BAM.[22] The Exchange notes that this proposal does not propose any new policies or provisions that are unique or unproven, but instead relates to the continuation of a program that briefly operated on a pilot basis.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In this regard, the Exchange notes that the rule change is being proposed in order to continue BAM without a minimum size requirement. BAM itself was a competitive response to analogous programs offered by other options exchanges but was only recently approved and launched. At the same time, other options exchanges that have been operating similar price improvement mechanisms for longer periods of time recently filed to operate such mechanisms on a permanent basis, including with regard to the fact that such mechanisms to not have a minimum size requirement.[23] Accordingly, the Exchange's proposal to operate BAM without a minimum size requirement is a competitive proposal and the Exchange believes this proposed rule change is necessary to permit fair competition among the options exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written

permanent, including that there is no minimum size requirement).

[11] *See* Exchange Rule 21.19(b)(3).

[12] *See* Exchange Rule 21.19(b)(1)(A).

[13] *See* Exchange Rule 21.19(a)(6).

[14] *See id.*

[15] *See* Exchange Rule 21.19(b)(4)(B)(iii).

[16] *See* Exchange Rule 21.19(a)(1)(A).

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

[19] *See supra,* note 10.

[20] *See supra,* notes 11–13 and accompanying text.

[21] *See supra,* notes 14–15 and accompanying text.

[22] *See supra,* note 16 and accompanying text.

[23] *See supra,* note 10.

comments from members or other interested parties.

III. 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–BatsEDGX–2017–05 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsEDGX–2017–05. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsEDGX–2017–05, and should be submitted on or before February 15, 2017.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

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 and, in particular, with Section 6(b) of the Act.[24] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[25] 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect customers, issuers, brokers and dealers.

The Commission notes that BAM is designed to provide customers with an opportunity for price improvement to orders, including orders of fewer than 50 contracts. The Commission also notes that BAM currently requires price improvement for Agency Orders of fewer than 50 contracts when the NBBO has a bid/ask differential of $0.01, a situation in which an Agency Order may be less likely to receive price improvement due to the limited spread.[26] In addition, the Commission notes that BAM is designed to encourage competition and promote an active and liquid market outside of BAM. Specifically, the Commission notes that the Exchange's rules provide for broad participation in BAM,[27] promote market maker participation by prohibiting an Initiating Order from being a solicited order for the account of a market maker assigned in the affected series,[28] and encourage competitive quoting outside BAM by providing Priority Order status in a BAM Auction.[29] Finally, the Commission notes that the rules governing EDGX's BAM are similar to those governing auction mechanisms operating at other options exchanges.[30] Thus, the Commission has determined to approve the Exchange's proposal to approve the Pilot on a permanent basis.

The Exchange has requested that the Commission find good cause for approving the proposed rule change prior to the 30th day after publication of the notice thereof in the **Federal Register**. The Exchange stated that accelerated approval of its proposal would allow the applicable rules to remain in effect following the expiration of the Pilot on January 18, 2017, which would provide certainty to members of the Exchange because it will allow BAM to continue on the Exchange uninterrupted. For this reason, the Commission believes that good cause exists for accelerated approval of the proposed rule change. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[31] to approve the proposed rule change prior to the 30th day after the date of publication of the notice of filing thereof in the **Federal Register**.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[32] that the proposed rule change (SR–BatsEDGX–2017–05) be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–01616 Filed 1–24–17; 8:45 am]

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[24] 15 U.S.C. 78f(b). 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).

[25] 15 U.S.C. 78f(b)(5).

[26] *See* Exchange Rule 21.19(a)(1)(A). Other options exchanges with price improvement auctions have provided data to the Commission demonstrating that such orders receive relatively small amounts of price improvement. *See, e.g.,* Securities Exchange Act Release No. 79465 (December 5, 2016), 81 FR 89167, 89169 (December 9, 2016) (SR–BX–2016–063).

[27] *See, e.g.,* Exchange Rule 21.19(b)(3).

[28] *See* Exchange Rule 21.19(a)(6).

[29] *See* Exchange Rule 21.19(b)(4)(B)(iii).

[30] *See, e.g.,* CBOE Rule 6.74A and Chapter VI, Section 9 of the BX Options Rules. These rules have also been operating on a pilot basis, which the exchanges have similarly proposed to make permanent. *See supra* note 10. The Commission notes that, in conjunction with EDGX's proposal, it is approving comparable pilot programs in effect on other options exchanges. *See e.g.,* Securities Exchange Act Release No. 79812 (January 17, 2017) (SR–BOX–2016–58).

[31] 15 U.S.C. 78s(b)(2).

[32] 15 U.S.C. 78s(b)(2).

[33] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79830; File No. SR–NYSEMKT–2016–120]

Self-Regulatory Organizations; NYSE MKT LLC; Order Granting Accelerated Approval of a Proposed Rule Change To Amend NYSE MKT Rule 971.1NY and Make Permanent the Aspects of Customer Best Execution Auction That Are Subject to a Pilot

January 18, 2017.

I. Introduction

On December 16, 2016, NYSE MKT LLC (''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (''Commission''), pursuant to the provisions of 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 certain eligibility requirements of NYSE MKT Rule 971.1NY (''Rule 971.1NY'') that govern its Customer Best Execution Auction (''CUBE'' or ''CUBE Auction'') and to make permanent the provisions of Rule 971.1NY that currently operate on a pilot basis. The proposed rule change was published for comment in the **Federal Register** on December 23, 2016.[3] The Commission received no comments regarding the proposal. This order approves the proposed rule change on an accelerated basis.

II. Description of the Proposal

CUBE is an electronic crossing mechanism for single-leg orders that is designed to provide the opportunity for price improvement for paired orders of any size.[4] To commence a CUBE Auction, an ATP Holder (''Initiating Participant'') may electronically submit for execution a limit order that it represents as agent on behalf of a public customer, broker dealer, or any other entity (''CUBE Order''). The Initiating Participant agrees to guarantee the execution of the CUBE Order by submitting a contra-side order representing principal interest or interest that it has solicited to trade with the CUBE Order at a specified price (''single stop price'') or by utilizing the auto-match or auto-match limit features set forth in Rule 971.1NY.[5]

Two aspects of the CUBE were approved by the Commission on a pilot basis (''CUBE Pilot''): (1) Rule 971.1NY(b)(1)(B), which establishes the permissible range of executions for CUBE Auctions for fewer than 50 contracts; [6] and (2) Rule 971.1NY(b)(8), which establishes the minimum size for a CUBE Auction as one contract. In connection with the CUBE Pilot, the Exchange has provided certain data to the Commission to provide supporting evidence that, among other things, there is meaningful competition for all size orders within the CUBE Auction and that there is an active and liquid market functioning on the Exchange outside of the CUBE Auction.[7] The CUBE Pilot is currently set to expire on January 18, 2017.[8]

As described more fully below, the Exchange proposes to amend Rule 971.1NY to provide that CUBE Orders for fewer than 50 contracts entered when the NBBO is $0.01 wide will be rejected, unless the Initiating Participant guarantees the CUBE Order price improvement. With this proposed modification to CUBE Auctions for fewer than 50 contracts, the Exchange proposes that the CUBE Pilot be made permanent. In support of its proposal, the Exchange has provided the Commission with data for CUBE executions for the period from January through June 2015 (''CUBE Data''),[9] as analyzed in summary below.

A. Modification of CUBE Eligibility Requirements

The Exchange proposes to modify Rule 971.1NY to require price improvement for CUBE Orders for fewer than 50 contracts when the NBBO is $0.01 wide. Currently, Rule 971.1NY(b)(6) provides that CUBE Orders for fewer than 50 contracts that are submitted when the Exchange best bid and offer (''BBO'') is $0.01 wide will be rejected. This requirement will be retained. The Exchange, however, proposes to amend Rule 971.1NY(b)(6) to add that CUBE Orders for fewer than 50 contracts entered when the NBBO is $0.01 wide also will be rejected (*i.e.,* whether or not the Exchange BBO is the same as the NBBO)—unless the Initiating Participant guarantees the execution of the CUBE Order to buy (sell) at a price that is equal to the NBO minus $0.01 (NBB plus $0.01), utilizing a single stop price, auto-match, or auto-match limit as specified in Rule 971.1NY(c)(1)(A)–(C).[10]

Although the Exchange continues to believe that the CUBE Auction provides opportunities for price improvement of CUBE Orders of fewer than 50 contracts when the NBBO has a bid/ask differential of $0.01, the Exchange states that the data have not demonstrated significant price improvement in this narrow circumstance.[11] The Exchange notes that between January and June 2015, a total of 171,822 contracts were executed in CUBE Auctions for fewer than 50 contracts when the NBBO had a bid/ask differential of $0.01. According to the Exchange, only 1,660 of those contracts received price improvement of $0.01. Thus, consistent with the Exchange's view that price improvement auctions should provide price improvement, particularly for small orders, the Exchange is proposing to require that Initiating Participants guarantee price improvement for CUBE Orders for fewer than 50 contracts when the NBBO is $0.01 wide; otherwise, the CUBE Order will be rejected.

B. Making the CUBE Pilot Permanent

The Exchange has analyzed the CUBE Data and believes that it indicates that there is meaningful competition in CUBE Auctions for all size orders, regardless of the size of the order or the bid/ask differential of the NBBO.[12] Specifically, between January and June 2015, a total of 4,493,429 contracts were executed in CUBE Auctions. According to the Exchange, Market Makers and other participants submitted competitive bids and offers during the CUBE Auction's Response Time Interval, and thereby indicated interest in participating in CUBE Auction trades. In addition, the Exchange believes that the allocation of orders executed in CUBE Auctions (either at a single price

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 79599 (December 19, 2016), 81 FR 94437 (''Notice'').

[4] *See* Rule 971.1NY. *See also* Securities Exchange Act Release No. 72025 (April 25, 2014), 79 FR 24779 (May 1, 2014) (NYSEMKT–2014–17).

[5] *See* Rule 971.1NY(c)(1)(A)–(C).

[6] Rule 971.1NY(b)(1) sets forth the permissible range of executions for a CUBE Order. Generally, a CUBE Order for 50 or more contracts may be executed at a price equal to or better than the National Best Bid and Offer (''NBBO'') on the contra side of the market and equal to or better than the NBBO on its own side of the market as long as there is no Customer order in the Exchange's Consolidated Book at that price on that side. *See* Rule 971.1NY(a) and (b)(1)(A). Pursuant to the CUBE Pilot, a CUBE Order for fewer than 50 contracts is subject to a tighter range of permissible executions. Specifically, if the CUBE Order is for fewer than 50 contracts, the execution price must be at least $0.01 better than any displayed interest in the Exchange's Consolidated Book. *See* Rule 971.1NY(a) and (b)(1)(B).

[7] *See* Commentary .01 to Rule 971.1NY.

[8] *See* Securities Exchange Act Release No. 78324 (July 14, 2016), 81 FR 47196 (July 20, 2016) (SR–NYSEMKT–2016–69).

[9] *See* Exhibit 3 to SR–NYSEMKT–2016–120.

[10] The proposal would not alter the separate price improvement requirement set forth in Rule 971.1NY(b)(1)(B), which, read in conjunction with Rule 971.1NY(a), establishes that the range of permissible execution prices for CUBE Orders of fewer than 50 contracts would be equal to or better than the NBBO and at least $0.01 better than any displayed interest in the Exchange's Consolidated Book.

[11] *See* Notice, *supra* note 3 at 94439. *See also* Exhibit 3 to SR–NYSEMKT–2016–120.

[12] *See* Notice, *supra* note 3 at 94439.

or multiple prices) supports competitive bidding and offering.

The Exchange also believes that the CUBE Data reveals that there is an active and liquid market functioning on the Exchange outside of the CUBE Auction.[13] The Exchange points out that competitive bidding and offering occurs outside of the CUBE Auction and participants can submit bids/offers at improved prices or join a bid or offer (thus improving liquidity at that price) regardless of the bid/ask differential of the NBBO.

As discussed above, the Exchange continues to believe that the CUBE Auction provides opportunities for price improvement of CUBE Orders of fewer than 50 contracts when the NBBO has a bid/ask differential of $0.01 (for one reason, because the market conditions may change during the CUBE Auction). However, because the data have not demonstrated significant price improvement in this circumstance,[14] the Exchange has proposed to require that Initiating Participants guarantee price improvement for CUBE Orders for fewer than 50 contracts when the NBBO has a bid/ask differential of $0.01.

The Exchange believes, however, that CUBE Auctions for fewer than 50 contracts have served as a valuable tool in providing price improvement when the NBBO has a bid/ask differential of greater than $0.01. The Exchange notes that, for CUBE Auctions of fewer than 50 contracts, the CUBE Data indicates that when the NBBO has a bid/ask differential between $0.02 and $0.05, contracts executed in CUBE Auctions received, on average, price improvement of $0.0114, and, in wider markets (*i.e.,* bid/ask differentials greater than $0.05), contracts executed in CUBE Auctions received, on average, price improvement of more than $0.0759.[15]

Based on its analysis of the CUBE Data, including the data regarding CUBE Auctions where the NBBO spread is $0.01, the Exchange believes that the CUBE Auction, as modified by the proposed revision to Rule 971.1NY(b)(6), would allow the Exchange to continue to provide meaningful competition for all size orders—including small orders—as well as to continue to offer an active and liquid market outside of the CUBE Auction.[16] Thus, the Exchange believes that it would be beneficial to customers and to the options market to make permanent the CUBE Pilot, with the modification for CUBE Auctions of fewer than 50 contracts where the NBBO spread is $0.01. Once permanent, the CUBE Auction would continue to accept orders of fewer than 50 contracts, provided such orders comply with amended Rule 971.1NY(b)(6), which should continue to attract small orders and promote competition and price improvement opportunities for such CUBE Orders.

III. 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 and, in particular, with Section 6(b) of the Act.[17] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[18] 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect customers, issuers, brokers and dealers.

As part of its proposal, the Exchange provided summary data on Exhibit 3 of its filing for the period January through June 2015, which the Exchange and Commission both publicly posted on their respective Web sites. Among other things, this data is useful in assessing the level of price improvement in the auction, in particular for orders of fewer than 50 contracts; the degree of competition for order flow in such auctions; and a comparison of liquidity in the auctions with liquidity on the Exchange generally.[19] Based on the data provided by the Exchange, the Commission believes that the Exchange's price improvement auction generally delivers a meaningful opportunity for price improvement to orders, including orders for fewer than 50 contracts, when the spread in the option is $0.02 or more. At the same time, as the Exchange has recognized, the data do not demonstrate that such orders have realized significant price improvement when the NBBO has a bid/ask differential of $0.01.[20] Recognizing this, the Exchange has proposed to amend the auction eligibility requirements to reject any CUBE Order where the NBBO has a bid/ask differential of $0.01, whether or not the Exchange BBO is the same as the NBBO, unless the Initiating Participant guarantees at least $0.01 of price improvement.[21]

The Exchange's proposal to modify the auction eligibility requirements for orders of fewer than 50 contracts and seek permanent approval of the CUBE Pilot, as amended with the new provision, will, in the Commission's view, promote opportunities for price improvement for such orders when the NBBO is $0.01 wide, while continuing to provide opportunities for price improvement when spreads are wider than $0.01.

The Commission believes that, particularly for auctions for fewer than 50 contracts when the bid/ask differential is wider than $0.01, the data provided by the Exchange support its proposal to make the CUBE Pilot permanent. The data demonstrate that the auction generally provides price improvement opportunities to orders, including orders of retail customers and particularly when the bid/ask differential is wider than $0.01, that there is meaningful competition for orders on the Exchange; and that there exists an active and liquid market functioning on the Exchange outside of the auction.[22] The Commission further believes that the proposed revision to the eligibility requirements for orders of fewer than 50 contracts with respect to circumstances when the NBBO is no more than $0.01 wide should help to enhance the operation of the auction by providing meaningful opportunities for price improvement in such circumstances, and should benefit investors and others in a manner that is consistent with the Act. Thus, the Commission has determined to approve the Exchange's proposed revisions to Rule 971.1NY(b)(6) and Commentary .01 to Rule 971.1NY and to approve the

[13] From January through June 2015, the Exchange executed a total of 152,193,516 contracts outside of CUBE Auctions, which the Exchange believes is indicative of an active and liquid market functioning on the Exchange outside of CUBE Auctions.

[14] *See* Notice, *supra* note 3 at 94439.

[15] *See id. See also* Exhibit 3 to SR–NYSEMKT–2016–120.

[16] *See* Notice, *supra* note 3 at 94439.

[17] 15 U.S.C. 78f(b). 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).

[18] 15 U.S.C. 78f(b)(5).

[19] *See* Exhibit 3 to SR–NYSEMKT–2016–120.

[20] *See* Notice, *supra* note 3 at 94439.

[21] The Exchange will continue to reject CUBE Orders for fewer than 50 contracts when the BBO is $0.01 wide. *See* Rule 971.1NY(b)(6).

[22] *See* Exhibit 3 to SR–NYSEMKT–2016–120.

CUBE Pilot, as proposed to be modified, on a permanent basis.

IV. Accelerated Approval of Proposed Rule Change

The Exchange has requested that the Commission find good cause for approving the proposed rule change prior to the 30th day after publication of the notice thereof in the **Federal Register**. The Exchange stated that accelerated approval of its proposal would allow the applicable rules to remain in effect following the expiration of the CUBE Pilot on January 18, 2017, which would avoid any potential investor confusion that could result from a suspension or temporary interruption in the CUBE Pilot. For this reason, the Commission believes that good cause exists for accelerated approval of the proposed rule change. The Commission further notes that the original proposal was subject to a 21 day comment period and no comments were received on the proposal. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[23] to approve the proposed rule change prior to the 30th day after the date of publication of the notice of filing thereof in the **Federal Register**.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[24] that the proposed rule change (SR–NYSEMKT–2016–120), be and hereby is approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–01609 Filed 1–24–17; 8:45 am]

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[23] 15 U.S.C. 78s(b)(2).

[24] 15 U.S.C. 78s(b)(2).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79833; File No. S7–27–11]

Order Extending Certain Temporary Exemptions Under the Securities Exchange Act of 1934 in Connection With the Revision of the Definition of ''Security'' To Encompass Security-Based Swaps and Request for Comment

January 18, 2017.

I. Introduction

The Securities and Exchange Commission (''Commission'') is (i) extending certain temporary exemptive relief originally provided by the Commission in connection with the revision of the definition of ''security'' in the Securities Exchange Act of 1934 (''Exchange Act'') to encompass security-based swaps (''Temporary Exemptions''); [1] and (ii) requesting comment on whether continuing exemptive relief is necessary beyond February 5, 2018. These temporary exemptions were provided by the Commission on July 1, 2011 and most recently extended by the Commission on February 5, 2014.[2] Certain of the Temporary Exemptions are set to expire on February 5, 2017.[3]

The expiration dates in the Extension Order distinguished between: (i) The Temporary Exemptions related to pending security-based swap rulemakings (''Linked Temporary Exemptions''); and (ii) the Temporary Exemptions that generally were not directly related to a specific security-based swap rulemaking (''Unlinked Temporary Exemptions''). The expiration dates for the Linked Temporary Exemptions established by the Extension Order were the compliance dates for the specific rulemakings to which they were ''linked,'' and the expiration date for the Unlinked Temporary Exemptions was three years following the effective date of the Extension Order (*i.e.,* February 5, 2017), or such time that the Commission issues an order or rule determining whether continuing exemptive relief is appropriate for security-based swaps with respect to any such Unlinked Temporary Exemptions.

As described in more detail below, the Commission is extending the expiration date for the Unlinked Temporary Exemptions until February 5, 2018. This approach provides the Commission flexibility to determine whether continuing relief should be provided for any Unlinked Temporary Exemptions while the Commission continues to consider the relevant rules mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act.[4] This release has no effect on the expiration dates for the Linked Temporary Exemptions.[5]

II. Discussion

A. Background

Title VII of the Dodd-Frank Act amended the definition of ''security'' under the Exchange Act to expressly encompass security-based swaps.[6] The expansion of the definition of the term ''security'' changed the scope of the Exchange Act regulatory provisions that apply to security-based swaps and

[1] *See* Order Granting Temporary Exemptions under the Securities Exchange Act of 1934 in Connection with the Pending Revisions of the Definition of ''Security'' to Encompass Security-Based Swaps, Exchange Act Release No. 64795 (Jul. 1, 2011), 76 FR 39927 (Jul. 7, 2011) (''Exchange Act Exemptive Order'').

[2] *See* Order Extending Temporary Exemptions under the Securities Exchange Act of 1934 in Connection with the Revision of the Definition of ''Security'' to Encompass Security-Based Swaps, and Request for Comment, Exchange Act Release No. 71485 (Feb. 5, 2014), 79 FR 7731 (Feb. 10, 2014) (''Extension Order''); *see also* Further Definition of ''Swap,'' ''Security-Based Swap,'' and ''Security-Based Swap Agreement''; Mixed Swaps; Security-Based Swap Agreement Recordkeeping, Exchange Act Release No. 67453 (Jul. 18, 2012), 77 FR 48207 (Aug. 13, 2012) (''Product Definitions Adopting Release'') (extending the expiration date of the Temporary Exemptions to February 11, 2013); and Order Extending Temporary Exemptions under the Securities Exchange Act of 1934 in Connection with the Revision of the Definition of ''Security'' to Encompass Security-Based Swaps, and Request for Comment, Exchange Act Release No. 68864 (Feb. 7, 2013), 78 FR 10218 (Feb. 13, 2013) (''2013 Extension Order'') (extending the expiration date to February 11, 2014).

[3] *See* Extension Order.

[4] The Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124, Stat. 1376 (2010) (''Dodd-Frank Act'').

[5] The Commission has already addressed some of the Linked Temporary Exemptions. For example, on June 8, 2016, the Commission adopted new rules for trade acknowledgement and verification of security-based swap transactions. *See* Trade Acknowledgement and Verification of Security-Based Swap Transactions, Exchange Act Release No. 78011 (Jun. 8, 2016), 81 FR 39807 (Jun. 17, 2016) (''Trade Acknowledgment Release''). In that release, the Commission described the application of Exchange Act Rule 10b–10 to transactions in security-based swaps and noted that the Linked Exemption relating to Exchange Act Rule 10b–10 would expire upon the compliance date of the new Rule 15Fi–2. *See* Trade Acknowledgement Release at 39824–25, note 189.

[6] *See* Section 761(a)(2) of the Dodd-Frank Act (amending Section 3(a)(10) of the Exchange Act (15 U.S.C. 78c(a)(10)). The provisions of Title VII generally became effective on July 16, 2011 (360 days after the enactment of the Dodd-Frank Act) (the ''Effective Date''), unless a provision required a rulemaking, in which case the provision would go into effect ''not less than'' 60 days after publication of the related final rules in the **Federal Register** or on July 16, 2011, whichever is later. *See* Section 774 of the Dodd-Frank Act.

raised certain complex questions that require further consideration.

On July 1, 2011, the Commission issued the Exchange Act Exemptive Order granting temporary exemptive relief from compliance with certain provisions of the Exchange Act in connection with the revision of the Exchange Act definition of ''security'' to encompass security-based swaps.[7] The Exchange Act Exemptive Order granted temporary exemptive relief from compliance with certain provisions of the Exchange Act in connection with security-based swap activity by: (i) Any person who meets the definition of ''eligible contract participant'' (''ECPs'') set forth in Section 1a(12) of the Commodity Exchange Act as of the day prior to the enactment of the Dodd-Frank Act (July 20, 2010) and (ii) a broker or dealer registered under Section 15(b) of the Exchange Act.[8]

The overall approach of the Exchange Act Exemptive Order was directed toward maintaining the *status quo* during the implementation process for the Dodd-Frank Act by preserving the application of particular Exchange Act requirements that were already applicable in connection with instruments that became ''security-based swaps'' following the Effective Date of the Dodd-Frank Act,[9] but deferring the applicability of additional Exchange Act requirements in connection with those instruments explicitly being defined as ''securities'' as of the Effective Date.[10]

As described above, the Commission most recently extended the expiration date of the Unlinked Temporary Exemptions until the earlier of the time that the Commission issues an order or rule determining whether continuing exemptive relief is appropriate, or until three years after the effective date of the Extension Order.[11] This approach was designed to provide the Commission with flexibility while its Dodd-Frank Act rulemaking is still in progress to determine whether continuing relief should be provided for any of the Unlinked Temporary Exemptions.[12]

B. Extension of Unlinked Temporary Exemptions

Since the issuance of the Extension Order, the Commission has implemented a substantial portion of the regulatory regime for security-based swaps required by Title VII of the Dodd-Frank Act.[13] However, the Commission

[7] At the time it issued the Exchange Act Exemptive Order, the Commission also adopted interim final rules that generally exempted offers and sales of security-based swaps entered into between eligible contract participants that would have been within the definition of ''security-based swap agreement'' under the Securities Act of 1933 (''Securities Act'') and the Exchange Act prior to the Effective Date from all provisions of the Securities Act, other than the Section 17(a) anti-fraud provisions, the registration requirements of the Exchange Act, and the provisions of the Trust Indenture Act of 1939, provided certain conditions are met. *See* Exemptions for Security-Based Swaps, Securities Act Release No. 9231, Exchange Act Release No. 64794, Trust Indenture Act Release No. 2475 (Jul. 1, 2011), 76 FR 40605 (Jul. 11, 2011). This extension order does not address these interim final rules, which are scheduled to expire on February 11, 2017. *See* Extension of Exemptions for Security-Based Swaps, Securities Act Release No. 9545, Exchange Act Release No. 71482, Trust Indenture Act Release No. 2495 (Feb. 5, 2014), 79 FR 7570 (Feb. 10, 2014).

The Commission also, on June 15, 2011, issued an exemptive order granting temporary relief from compliance with certain provisions added to the Exchange Act by subtitle B of Title VII of the Dodd-Frank Act with which compliance would have otherwise been required as the Effective Date. In that order, the Commission provided guidance regarding the provisions of the Exchange Act that were added by Title VII with which compliance was required as of the Effective Date. *See* Temporary Exemptions and Other Temporary Relief, Together with Information on Compliance Dates for New Provisions of the Securities Exchange Act of 1934 Applicable to Securities-Based Swaps, Exchange Act Release No. 64678 (Jun. 15, 2011), 76 FR 36287 (Jun. 22, 2011).

[8] *See* Exchange Act Exemptive Order. The Exchange Act Exemptive Order did not provide exemptive relief for any provisions or rules prohibiting fraud, manipulation, or insider trading (other than the prophylactic reporting or recordkeeping requirements such as the confirmation requirements of Exchange Act Rule 10b–10). In addition, the Exchange Act Exemptive Order did not affect the Commission's investigative, enforcement, and procedural authority related to those provisions and rules. *See* Exchange Act Exemptive Order at 39931, note 34. The Exchange Act Exemptive Order also did not address Sections 12, 13, 14, 15(d), 16, and 17A of the Exchange Act and the rules thereunder. The Commission did, however, issue limited temporary relief from the clearing agency registration requirements under Section 17A(b) for entities providing certain clearing services for security-based swaps. This relief was linked to final rules issued by the Commission relating to the registration of clearing agencies that clear security-based swaps. *See* Order Pursuant to Section 36 of the Securities Exchange Act of 1934 Granting Temporary Exemptions from Clearing Agency Registration Requirements under Section 17A(b) of the Exchange Act for Entities Providing Certain Clearing Services for Security-Based Swaps, Exchange Act Release No. 64796 (Jul. 1, 2011), 76 FR 39963 (Jul. 7, 2011).

The Commission also provided a temporary exemption within the Exchange Act Exemptive Order for Sections 5 and 6 of the Exchange Act and linked the expiration date of that exemptive relief until the earliest compliance date set forth in any of the final rules regarding registration of security-based swap execution facilities. *See* Exchange Act Exemptive Order at 39934–36.

The Exchange Act Exemptive Order further provided that no security-based swap contract entered into on or after July 16, 2011 shall be void or considered voidable by reason of Section 29(b) of the Exchange Act because any person that is a party to the contract violated a provision of the Exchange Act for which the Commission has provided exemptive relief in the Exchange Act Exemptive Order, until such time as the underlying exemptive relief expires. By extending the underlying Unlinked Temporary Exemptions until February 5, 2018, this order will also extend the relevant Section 29(b) relief until that same date. *See* Exchange Act Exemptive Order at 39938–39.

[9] These instruments generally constituted ''security-based swap agreements'' under the pre-Dodd-Frank Act framework and were already subject to specific antifraud and anti-manipulation provisions under the Exchange Act (including Exchange Act Section 10(b)). Under the Exchange Act Exemption Order, instruments that (before the Effective Date) were security-based swap agreements and (after the Effective Date) constituted security-based swaps were still subject to the application of those Exchange Act provisions. *See* Exchange Act Exemptive Order at 39930, notes 24–25.

[10] *See* Exchange Act Exemptive Order at 39929.

[11] *See* Extension Order. The Commission did not receive any comments in response to the request for comment in the Extension Order. However, in 2013, the Commission received a request from market participants to extend certain of the Temporary Exemptions, citing concerns that key issues and questions regarding the application of the federal securities laws remained unresolved and continuing concerns about the potential for unnecessary disruption to the security-based swap market. *See* SIFMA Request for Extension of the Expiration Date of the SEC's Exchange Act Exemptive Order and SBS Interim final Rules (Dec. 20, 2012), which is available at *http://www.sec.gov/comments/s7-27-11/s72711-12.pdf.*

[12] *See id.* at 7731. The Extension Order also linked the expiration date of the Linked Temporary Exemptions until the compliance date for such rulemakings. The Extension Order identified the Linked Temporary Exemptions as those related to: (1) Capital and margin requirements (Sections 7 and 15(c)(3), Regulation T, and Exchange Act Rules 15c3–1, 15c3–3, and 15c3–4); (2) recordkeeping requirements (Sections 17(a) and 17(b) and Exchange Act Rules 17a–3, 17a–4, 17a–5, 17a–11, and 17a–13); (3) registration requirements under Section 15(a)(1) and the other requirements of the Exchange Act and the rules and regulations thereunder that apply to a ''broker'' or ''dealer'' that is not registered with the Commission; (4) Exchange Act Rule 10b–10; and (5) Regulation ATS. Accordingly, as applicable, the Commission extended these exemptions until the compliance date for pending rulemakings concerning: Capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants; recordkeeping and reporting requirements for broker-dealers, security-based swap dealers, and major security-based swap participants; security-based swap trade acknowledgements; and registration requirements for security-based swap execution facilities. The Linked Temporary Exemptions are not addressed in this order and will be separately considered in connection with the related security-based swap rulemakings. *See supra* note 5.

[13] *See, e.g.,* Regulation SBSR—Reporting and Dissemination of Security-Based Swap Information, Exchange Act Release No. 74244 (Feb. 11, 2015), 80 FR 14563 (Mar. 19, 2015); Security-Based Swap Data Repository Registration, Duties, and Core Principles, Exchange Act Release No. 74246 (Feb. 11, 2015), 80 FR 14437 (Mar. 19, 2015); Registration Process for Security-Based Swap Dealers and Major Security-Based Swap Participants, Exchange Act Release No. 75611 (Aug. 5, 2015), 80 FR 48963 (Aug. 14, 2015); Security-Based Swap Transactions Connected with a Non-U.S. Person's Dealing Activity That Are Arranged, Negotiated, or Executed By Personnel Located in a U.S. Branch or Office or in a U.S. Branch or Office of an Agent; Security-Based Swap Dealer De Minimis Exception, Exchange Act Release No. 77104 (Feb. 10, 2016), 81 FR 8597 (Feb. 19, 2016); Trade Acknowledgement Release; Business Conduct Standards for Security-Based Swap Dealers and Major Security-Based Swap Participants, Exchange Act Release 77617

is still in the process of considering its rules under Title VII of the Dodd-Frank Act.[14] Therefore, the Commission believes it is necessary or appropriate in the public interest, and consistent with the protection of investors to extend the Unlinked Temporary Exemptions until February 5, 2018 to avoid any potential market disruption stemming from the application of certain existing Exchange Act provisions and rules to security-based swap activities. This approach also will provide the Commission with additional time to consider the potential impact of the revision of the Exchange Act definition of ''security'' on the scope of the Exchange Act provisions and rules applicable to security-based swaps, as well as the appropriateness of applying certain Exchange Act provisions and rules to security-based swap activities in light of the Commission's continuing rulemaking efforts.

Accordingly, pursuant to its authority under Section 36 of the Exchange Act,[15] the Commission believes it is necessary or appropriate in the public interest, and consistent with the protection of investors to extend the expiration of the Unlinked Temporary Exemptions until February 5, 2018.

III. Solicitation of Comments

The Commission is providing interested parties the opportunity to comment on whether any relief should be granted with respect to any specific Unlinked Temporary Exemption(s) beyond February 5, 2018. To the extent that interested parties request specific relief for any of the Unlinked Temporary Exemptions beyond February 5, 2018, any request should be detailed as to the circumstances in which the Exchange Act provision or rule applies to security-based swaps or security-based swap market participants, and why relief would be necessary.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/exorders.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number S7–27–11 on the subject line; or
- Use the Federal eRulemaking Portal (*http://www.regulations.gov*). Follow the instructions for submitting comments.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F St. NE., Washington, DC 20549–1090.

All submissions should refer to File Number S7–27–11. This file number should be included on the subject line if email is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/exorders.shtml*). Comments are also available for Web site viewing and printing in the Commission's Public Reference Room, 100 F St. NE., Washington, DC 20549 on official business days between the hours of 10 a.m. and 3 p.m. 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.

IV. Conclusion

It is hereby ordered, pursuant to Section 36 of the Exchange Act, that the Unlinked Temporary Exemptions contained in the Exchange Act Exemptive Order and extended in the Extension Order in connection with the revisions of the Exchange Act definition of ''security'' to encompass security-based swaps are extended until February 5, 2018.

By the Commission.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–01620 Filed 1–24–17; 8:45 am]

BILLING CODE 8011–01–P

(Apr. 14, 2016), 81 FR 29960 (May 13, 2016); Regulation SBSR—Reporting and Dissemination of Security-Based Swap Information, Exchange Act Release No. 78321 (Jul. 14, 2016), 81 FR 53545 (Aug. 12, 2016); and Access to Data Obtained by Security-Based Swap Data Repositories, Exchange Act Release No. 78716 (Aug. 29, 2016), 81 FR 60585 (Sep. 2, 2016).

[14] *See e.g.,* Registration and Regulation of Security-Based Swap Execution Facilities, Exchange Act Release No. 63825 (Feb. 2, 2011), 76 FR 10948 (Feb. 28, 2011); Capital, Margin, and Segregation Requirements for Security-Based Swap Dealers and Major Security-Based Swap Participants and Capital Requirements for Broker-Dealers, Exchange Act Release No. 68071 (Oct. 18, 2012), 77 FR 70213 (Nov. 23, 2012); Recordkeeping and Reporting Requirements for Security-Based Swap Dealers, Major Security-Based Swap Participants, and Broker-Dealers; Capital Rule for Certain Security-Based Swap Dealers; Proposed Rules, Exchange Act Release No. 71958 (Apr. 17, 2014), 79 FR 25194 (May 2, 2014); and Applications by Security-Based Swap Dealers or Major Security-Based Swap Participants for Statutorily Disqualified Associated Person To Effect or Be Involved in Effecting Security-Based Swaps, Exchange Act Release No. 75612 (Aug 5, 2015), 80 FR 51684 (Aug. 25, 2015).

[15] 15 U.S.C. 78mm. Section 36 of the Exchange Act authorizes the Commission to conditionally or unconditionally exempt, by rule, regulation, or order any person, security, or transaction (or any class or classes of persons, securities, or transactions) from any provision of the Exchange Act or any rule or regulation thereunder, to the extent such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79829; File No. SR–ISE–2016–29]

Self-Regulatory Organizations; International Securities Exchange, LLC; Order Granting Approval of Proposed Rule Change To Amend ISE Rule 723 and To Make Pilot Program Permanent

January 18, 2017.

I. Introduction

On December 12, 2016, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') 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 eligibility requirements for its Price Improvement Mechanism (''PIM'' or ''Auction'') and make permanent those aspects of the PIM that are currently operating on a pilot basis. The proposed rule change was published for comment in the **Federal Register** on December 16, 2016.[3] The Commission received no comments regarding the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange established PIM in December 2004 as a price improvement mechanism.[4] Pursuant to ISE Rule 723, an Electronic Access Member (''EAM'') may electronically submit for execution an order it represents as agent (''Agency Order'') against principal interest or against a solicited order for the full size of the Agency Order, provided it submits the Agency Order for electronic execution into the PIM (a ''Crossing Transaction''). Parts of the PIM are currently operating on a pilot basis (''Pilot''),[5] which is set to expire on

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 79530 (December 12, 2016), 81 FR 91221 (''Notice'').

[4] *See* Securities Exchange Act Release No. 50819 (December 8, 2004), 69 FR 75093 (December 15, 2004) (SR–ISE–2003–06) (''PIM Approval Order'').

[5] Two components of PIM were approved by the Commission on a pilot basis: (1) The early conclusion of the PIM; and (2) no minimum size requirement of orders.

January 18, 2017.[6] The Exchange proposes to make the Pilot permanent, and also proposes to amend the Auction eligibility requirements for certain Agency Orders of less than 50 option contracts.

A. PIM Eligibility Requirements for Agency Orders of Fewer than 50 Contracts

Currently, the PIM may be initiated if certain conditions are met. The Crossing Transaction must be entered only at a price that is equal to or better than the National Best Bid/Offer (''NBBO'') on the opposite side of the market from the Agency Order, and better than the limit order or quote on the ISE order book on the same side of the Agency Order.[7]

ISE proposes to amend ISE Rule 723(b) to require EAMs to provide at least $0.01 price improvement for an Agency Order if that order is for less than 50 option contracts and if the difference between the NBBO is $0.01. For the period beginning January 19, 2017 until a date specified by the Exchange in a Regulatory Information Circular, which date shall be no later than July 15, 2017, ISE will adopt a member conduct standard to implement this requirement.[8] Under this provision, ISE is proposing to amend the Auction Eligibility Requirements to require that, if the Agency Order is for less than 50 option contracts, and if the difference between the NBBO is $0.01, an EAM shall not enter a Crossing Transaction unless such Crossing Transaction is entered at a price that is one minimum price improvement increment better than the NBBO on the opposite side of the market from the Agency Order, and better than any limit order on the limit order book on the same side of the market as the Agency Order. This requirement will apply regardless of whether the Agency Order is for the account of a public customer, or where the Agency Order is for the account of a broker dealer or any other person or entity that is not a Public Customer.

To enforce this requirement, ISE also proposes to add ISE Rule 1614(d)(4), which will provide that any member who enters an order into PIM for less than 50 contracts, while the difference between the NBBO is $0.01, must provide price improvement of at least one minimum price improvement increment better than the NBBO on the opposite side of the market from the Agency Order, which increment may not be smaller than $0.01. Failure to provide such price improvement will result in members being subject to the following fines: $500 for the second offense, $1,000 for the third offense, and $2,500 for the fourth offense. Subsequent offenses will subject the member to formal disciplinary action. The Exchange will review violations on a monthly cycle to assess these violations. This provision shall also be in effect for the period beginning January 19, 2017 until a date specified by the Exchange in a Regulatory Information Circular, which date shall be no later than September 15, 2017.[9] The Exchange stated that it will conduct electronic surveillance of the PIM to ensure that members comply with the proposed price improvement requirements for option orders of less than 50 contracts.[10]

The Exchange is also proposing a systems-based mechanism to implement this price improvement requirement, which shall be effective following the migration of a symbol to INET, the platform operated by Nasdaq, Inc. that will also operate the PIM.[11] Under this provision, if the Agency Order is for less than 50 option contracts, and if the difference between the NBBO is $0.01, the Crossing Transaction must be entered at one minimum price improvement increment better than the NBBO on the opposite side of the market from the Agency Order and better than the limit order or quote on the ISE order book on the same side of the Agency Order.

The Exchange will retain the current requirements for PIM eligibility in all other instances. Accordingly, if the Agency Order is for 50 option contracts or more or if the difference between the NBBO is greater than $0.01, the Crossing Transaction must be entered only at a price that is equal to or better than the NBBO and better than the limit order or quote on the ISE order book on the same side as the Agency Order.

The Exchange believes that these changes to PIM may provide additional opportunities for Agency Orders of fewer than 50 option contracts to receive price improvement over the NBBO where the difference in the NBBO is $0.01.[12] The Exchange notes that the statistics for the current pilot, which include, among other things, price improvement for orders of fewer than 50 option contracts under the current Auction eligibility requirements, show relatively small amounts of price improvement for such orders.[13] ISE believes that the proposed requirements will therefore increase the price improvement that orders of fewer than 50 option contracts may receive in PIM.[14]

B. Pilot Program

Two components of the PIM were approved by the Commission on a pilot basis: (1) The early conclusion of the PIM; [15] and (2) no minimum size requirement of orders. The provisions were approved for a pilot period that currently expires on January 18, 2017.[16] The Exchange proposes to have the Pilot approved on a permanent basis.

During the Pilot period, the Exchange submitted certain data periodically as required by the Commission, to provide supporting evidence that, among other things, there is meaningful competition for all size orders, there is significant price improvement available through the PIM, and that there is an active and liquid market functioning on the Exchange outside of the Auction mechanism.[17]

1. No Minimum Size Requirement

Supplemental Material .03 to Rule 723 provides that, as part of the current Pilot, there will be no minimum size requirement for orders to be eligible for the Auction. The Exchange believes that the data gathered since the approval of

[6] *See* Securities Exchange Act Release No. 78344 (July 15, 2016), 81 FR 47459 (July 21, 2016) (SR–ISE–2016–17) (''PIM July 2016 Extension'').

[7] *See* ISE Rule 723(b)(1).

[8] The Exchange notes that its indirect parent company, U.S. Exchange Holdings, Inc. has been acquired by Nasdaq, Inc. *See* Securities Exchange Act Release No. 78119 (June 21, 2016), 81 FR 41611 (June 27, 2016) (SR–ISE–2016–11). Pursuant to this acquisition, ISE platforms are migrating to Nasdaq platforms, including the platform that operates PIM. ISE intends to retain the proposed member conduct standard requiring price improvement for options orders of under 50 contracts where the difference between the NBBO is $0.01 until the ISE platforms and the corresponding symbols are migrated to the platforms operated by Nasdaq, Inc. *See* Notice, *supra* note 3, at 91223 n.7.

[9] As noted above, ISE will be eliminating the member conduct standard requiring price improvement for options orders of under 50 contracts, where the difference between the NBBO is $0.01, by July 15, 2017. However, ISE Mercury, LLC (''ISE Mercury'') filed a rule change that adopts a similar member conduct standard, and that references proposed ISE Rule 1614(d)(4) as the means for enforcing its member conduct standard. *See* Securities Exchange Act Release No. 79539 (December 13, 2016), 81 FR 91982 (December 19, 2016) (SR–ISEMercury–2016–25). ISE Mercury proposed that its member conduct standard shall be in effect until a date specified by ISE Mercury in a Regulatory Information Circular, which date shall be no later than September 15, 2017. Accordingly, ISE is proposing that the date for eliminating Rule 1614(d)(4) shall be specified by the Exchange in a Regulatory Information Circular, which date shall be no later than until September 15, 2017.

[10] *See* Notice, *supra* note 3, at 91223.

[11] *See id.* at 91224. *See also* proposed ISE Rule 723(b).

[12] *See* Notice, *supra* note 3, at 91224.

[13] *See id.*

[14] *See id.*

[15] *See* ISE Rule 723(c)(5) and (d)(4).

[16] *See* PIM July 2016 Extension, *supra* note 6.

[17] *See* Supplementary Material .03 to ISE Rule 723.

the Pilot, which it discussed in the Notice, establishes that there is liquidity and competition both within the PIM and outside of the PIM, and that there are opportunities for significant price improvement within the PIM.[18]

The Exchange compiled price improvement data in simple PIM orders from January through June 2016. For January 2016, where the order was on behalf of a Public Customer, the order was for 50 contracts or less, and ISE was at the NBBO, the most contracts traded (194,249) occurred when the spread was between $0.05 and $0.10.[19] Of these, the greatest number of contracts (43,888) received no price improvement. When the spread was $0.01 for this same category, a total of 17,202 contracts traded; 16,032 contracts received no price improvement, and 1,170 received $0.01 price improvement.[20]

In comparison, in January 2016, where the order was on behalf of a Public Customer, and the order was for greater than 50 contracts, and ISE was at the NBBO, the most contracts traded (14,078) occurred where the spread was between $0.10 and $0.20. Of those contracts, the greatest number of contracts (6,254) received price improvement of $0.05 to $0.10, and 44 contracts received no price improvement.[21]

In January 2016, where the order was on behalf of a Public Customer, the order was for 50 contracts or less, and ISE was not at the NBBO, the most contracts traded (76,326) occurred when the spread was between $0.05 and $0.10. Of these contracts, the greatest number of contracts (18,008) received no price improvement.[22] In comparison, when the spread was $0.01 in this same category, a total of 17,687 contracts traded; 17,270 of those contracts received no price improvement, and 417 of those contracts received $0.01 price improvement.[23]

In comparison, in January 2016, where the order was on behalf of a Public Customer, the order was for greater than 50 contracts, and ISE was not at the NBBO, the most contracts traded (10,541) occurred when the spread was between $0.10 and $0.20. Of these contracts, the greatest number (3,738) received price improvement of $0.05 to $0.10.[24]

In January 2016, the greatest number of complex orders traded (2,139) traded when the spread was at $0.05. Of those orders, 181 represented orders of 50 or fewer contracts. During that period, the highest percentage (29.30%) of orders of greater than 50 contracts received $0.01 price improvement, and the highest percentage (20.4%) received no price improvement.[25]

ISE believes that the data gathered during the Pilot period indicates that there is meaningful competition in PIM auctions for all size orders, there is an active and liquid market functioning on the Exchange outside of the auction mechanism, and that, coupled with the proposed requirements for price improvement for options orders of under 50 contracts, there are opportunities for significant price improvement for orders executed through PIM.[26] The Exchange therefore has requested that the Commission approve the no-minimum size requirement on a permanent basis.

2. Early Conclusion of the PIM

Supplemental Material .05 to Rule 723 provides that Rule 723(c)(5) and Rule 723(d)(4), which relate to the termination of the exposure period by unrelated orders shall be part of the current Pilot. Rule 723(c)(5) provides that the exposure period will automatically terminate (i) at the end of the 500 millisecond period,[27] (ii) upon the receipt of a market or marketable limit order on the Exchange in the same series, or (iii) upon the receipt of a nonmarketable limit order in the same series on the same side of the market as the Agency Order that would cause the price of the Crossing Transaction to be outside of the best bid or offer on the Exchange. Rule 723(d)(4) provides that, when a market order or marketable limit order on the opposite side of the market from the Agency Order ends the exposure period, it will participate in the execution of the Agency Order at the price that is mid-way between the best counter-side interest and the NBBO, so that both the market or marketable limit order and the Agency Order receive price improvement. Transactions will be rounded, when necessary, to the $0.01 increment that favors the Agency Order.

As with the no minimum size requirement, the Exchange has gathered data on these three conditions to assess the effect of early PIM conclusions on the Pilot. For the period from January 2016 through June 2016, there were a total of 673 early terminated Auctions. The number of orders in early terminated PIM auctions constituted 0.15% of total PIM orders.[28] There were a total of 9,595 contracts that traded through early terminated Auctions. The number of contracts in early terminated PIM auctions represented 0.13% of total PIM contracts.[29] For complex orders, in January 2016, one order terminated early, and the PIM period upon termination was greater than or equal to 0.5 seconds.[30]

Based on the data gathered during the Pilot, the Exchange does not anticipate that any of these conditions will occur with significant frequency in either simple or complex orders, or will otherwise significantly affect the functioning of the PIM.[31] The Exchange therefore has requested that the Commission approve this aspect of the Pilot on a permanent basis.

III. 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 and, in particular, with Section 6(b) of the Act.[32] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[33] 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in

[18] *See* Notice, *supra* note 3, at 91224–25. *See also* Exhibit 3 to SR–ISE–2016–29.

[19] According to the Exchange, this discussion of January 2016 data is illustrative of data that was gathered between January 2016 and July 2016. *See* Notice, *supra* note 3, at 91224 n.12. The complete underlying data for January 2016 through June 2016 was attached as Exhibits 3A and 3B to the Notice.

[20] *See* Notice, *supra* note 3, at 91224.

[21] *See id.* at 91224–25.

[22] *See id.* at 91225.

[23] *See id.*

[24] *See id.*

[25] *See id.*

[26] *See id.*

[27] The Commission notes that, at the time of the filing of this proposal, the duration of the exposure period was 500 milliseconds. *See* Securities Exchange Act Release No. 68849 (February 6, 2013), 78 FR 9973 (February 12, 2013) (SR–ISE–2012–100). The Exchange recently received approval to modify the exposure period to a time period designated by the Exchange of no less than 100 milliseconds and no more than one second. *See* Securities Exchange Act Release No. 79733 (January 4, 2017), 82 FR 3055 (January 10, 2017) (SR–ISE–2016–26).

[28] *See* Notice, *supra* note 3, at 91225.

[29] *See id.*

[30] *See id.* at 91226.

[31] *See id.*

[32] 15 U.S.C. 78f(b). 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).

[33] 15 U.S.C. 78f(b)(5).

general, to protect customers, issuers, brokers and dealers.

As part of its proposal, the Exchange provided summary data on Exhibit 3 of its filing for the period January through June 2016, which the Exchange and Commission both publicly posted on their respective Web sites. Among other things, this data is useful in assessing the level of price improvement in the Auction, in particular for orders for fewer than 50 contracts; the degree of competition for order flow in such Auctions; and a comparison of liquidity in the Auctions with liquidity on the Exchange generally.[34] Based on the data provided by the Exchange, the Commission believes that the Exchange's price improvement auction generally delivers a meaningful opportunity for price improvement to orders, including orders for fewer than 50 contracts, when the spread in the option is $0.02 or more. At the same time, as the Exchange has recognized, the data do not demonstrate that such orders have realized significant price improvement when the NBBO has a bid/ask differential of $0.01.[35] Recognizing this, the Exchange has proposed to amend the Auction eligibility requirements to require the Initiating Participant to guarantee at least $0.01 of price improvement for Agency Orders of fewer than 50 contracts where the NBBO has a bid/ask differential of $0.01, whether or not the Exchange BBO is the same as the NBBO.

The Exchange's proposal to modify the Auction eligibility requirements for orders of fewer than 50 contracts and seek permanent approval of the Pilot, as amended with the new provision, will, in the Commission's view, promote opportunities for price improvement for such orders when the NBBO is $0.01 wide, while continuing to provide opportunities for price improvement when spreads are wider than $0.01.

In addition, the Commission has carefully evaluated the Pilot data and has determined that it would be beneficial to customers and to the options market as a whole to approve on a permanent basis the provisions concerning early conclusion of the PIM. The Commission notes that there have been few instances of early termination of the PIM.

The Commission believes that, particularly for Auctions for fewer than 50 contracts when the bid/ask differential is wider than $0.01, the data provided by the Exchange support its proposal to make the Pilot permanent. The data demonstrate that the Auction generally provides price improvement opportunities to orders, including orders of retail customers and particularly when the bid/ask differential is wider than $0.01; that there is meaningful competition for orders on the Exchange; and that there exists an active and liquid market functioning on the Exchange outside of the Auction.[36] The Commission further believes that the proposed revisions to the eligibility requirements for orders of fewer than 50 contracts with respect to circumstances when the NBBO is no more than $0.01 wide should help to enhance the operation of the Auction by providing meaningful opportunities for price improvement in such circumstances, and should benefit investors and others in a manner that is consistent with the Act.

The Commission further notes that, as discussed more fully above, ISE is initially proposing to implement is price improvement requirement for Agency Orders of fewer than 50 option contracts where the difference in the NBBO is $0.01 with a member conduct standard.[37] As described in greater detail above, ISE proposes to enforce this requirement under proposed ISE Rule 1614(d)(4). The Commission believes that ISE's proposed member conduct standard and its Rule 1614(d)(4) are reasonable means to implement the price improvement requirement until implementation of its proposed systems-based mechanism for this requirement, which will become effective following the migration of a symbol to INET, the platform operated by Nasdaq, Inc. that will also operate the PIM. The Commission further notes that the Exchange has represented that its proposed member conduct standard will be effective until the migration of all symbols to the INET platform, which shall be no later than July 15, 2017.[38]

Thus, the Commission has determined to approve the Exchange's proposed revisions to ISE Rule 723(b), Supplementary Material .03 and .05 to ISE Rule 723, and ISE Rule 1614(d), and to approve the Pilot, as proposed to be modified, on a permanent basis.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[39] that the proposed rule change (SR–ISE–2016–29), be and hereby is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[40]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–01608 Filed 1–24–17; 8:45 am]

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[34] *See* Exhibit 3 to SR–ISE–2016–29.

[35] *See* Notice, *supra* note 3 at 91976.

[36] *See* Exhibit 3 to SR–ISE–2016–29.

[37] The Exchange stated that it will conduct electronic surveillance of the PIM to ensure that members comply with the proposed price improvement requirements for option orders of fewer than 50 contracts. *See* Notice, *supra* note 3, at 91223.

[38] *See* Notice, *supra* note 3, at 91223 & n.7.

[39] 15 U.S.C. 78s(b)(2).

[40] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79837; File No. SR–MIAX–2016–46]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Order Granting Approval of a Proposed Rule Change To Amend Rule 515A, MIAX Price Improvement Mechanism ("PRIME") and PRIME Solicitation Mechanism

January 18, 2017.

I. Introduction

On November 25, 2016, Miami International Securities Exchange LLC ("MIAX" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to the provisions of 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 eligibility requirements for the MIAX Price Improvement Mechanism ("PRIME" or "Auction") and make permanent a pilot program for PRIME. The proposed rule change was published for comment in the **Federal Register** on December 13, 2016.[3] The Commission received no comments regarding the proposal. This order approves the proposed rule change.

II. Description of the Proposal

PRIME is a process by which a MIAX Member may electronically submit for execution an order it represents as agent ("Agency Order") against principal interest and/or an Agency Order against solicited interest.[4] The Member that submits the Agency Order (the "Initiating Member") must guarantee the execution of the Agency Order by submitting a contra-side order representing principal interest or solicited interest ("Contra-side Order").

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 79500 (December 7, 2016), 81 FR 90030 ("Notice").

[4] *See* MIAX Rule 515A(a). PRIME was introduced in 2014. *See* Securities Exchange Act Release No. 72009 (April 23, 2014), 79 FR 24032 (April 29, 2014) ("PRIME Approval Order").

When the Exchange receives a properly designated Agency Order for Auction processing, a Request for Responses (''RFR'') detailing the option, side, size, and initiating price will be sent to all subscribers of the Exchange's data feeds. Members may submit responses to the RFR (specifying prices and sizes). RFR responses can be either an Auction or Cancel (''AOC'') order or an AOC eQuote.[5]

In November 2014, MIAX established a pilot program (the ''Pilot'') to permit orders of any size to initiate a PRIME Auction at a price that is at or better than the national best bid or offer (''NBBO'').[6] Pursuant to Interpretations and Policies .08 to MIAX Rule 515A, the Exchange committed to provide data to the Commission to demonstrate that, among other things, there is meaningful competition for all size orders within PRIME, that there is significant price improvement for all orders executed through PRIME, and that there is an active and liquid market functioning on the Exchange outside of PRIME. The Pilot is currently set to expire on January 18, 2017.[7]

The Exchange proposes to make the Pilot permanent. The Exchange further proposes to adopt new Rule 515A(a)(1)(iii) to state that if, at the time of receipt of an Agency Order of fewer than 50 contracts, the NBBO has a bid/ask differential of $0.01, the System [8] will reject the Agency Order.

In support of its proposal, the Exchange has provided the Commission with data for PRIME executions from January 2015 through January 2016.[9] The Exchange believes that there has been meaningful competition for all size orders within the PRIME Auction process, regardless of the size of the order or the bid/ask differential of the NBBO.[10] Specifically from July 2015 through January 2016, there were a total of 961,152 PRIME Auctions on MIAX, which included more than 2,691,000 participants, for an average of 2.8 participants per PRIME Auction. [11]

The Exchange also believes that the data show that there is an active and liquid market functioning on the Exchange outside of the PRIME.[12] From July 2015 through January 2016, the Exchange executed 7,449,818 transactions for a total of 92,706,999 contracts outside of the PRIME. [13] According to the Exchange, competitive bidding and offering occurs outside of the PRIME and participants can submit bids/offers at improved prices or join a bid or offer (thus improving liquidity at that price) regardless of the bid/ask differential of the NBBO.[14]

While the Exchange continues to believe that opportunities remain for price improvement of Agency Orders with a size of less than 50 contracts when the NBBO has a bid/ask differential of $0.01 (*e.g.,* because market conditions may change during the PRIME Auction), the data have not demonstrated significant price improvement in this narrow circumstance, as indicated in the following table:[15]

PRIME Trades for Orders of Less Than 50 Contracts With NBBO Spread of $0.01

[5/1–10/25/2016]

Total Number of Trades	2,383,204	Total Number of Contracts	11,950,538
Trades Receiving Price Improvement	17,179	Contracts Receiving Price Improvement	154,338
Percent of Trades Receiving Improvement	0.72%	Percent of Contracts Receiving Improvement	1.29%

In addition to seeking permanent approval of the Pilot, the Exchange proposes to adopt new Rule 515A(a)(1)(iii) to require that if, at the time of receipt of an Agency Order of fewer than 50 contracts, the NBBO has a bid/ask differential of $0.01,[16] the System will reject the Agency Order. Agency Orders with a size of under 50 contracts will be accepted and processed by the System when the NBBO bid/ask differential is greater than $0.01, and all Agency Orders with a size of 50 contracts or greater will be accepted and processed by the System, regardless of the NBBO bid/ask differential.

The Exchange does believe, however, that based on the data there is significant price improvement, and significant opportunity for price improvement, for all Agency Orders submitted when the NBBO bid/ask differential is greater than $0.01.[17] In particular, the Exchange believes that continuing to allow PRIME Auctions to be initiated by Agency Orders with a size of 50 contracts or greater increases the opportunity for executions of larger size orders.[18] The Exchange believes that maintaining the PRIME Auction for Agency Orders with a size of 50 contracts or greater when the bid/ask differential at the NBBO is $0.01 enables consolidated size discovery and provides certainty of larger sized executions.[19] The Exchange believes that this represents an efficient way for market participants to access liquidity for larger sized orders.[20]

III. 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 and, in particular, with Section 6(b) of the Act.[21] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[22] 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 regulating, clearing, settling, processing information with respect to, and

[5] *See* MIAX Rule 515A(a)(2)(i)(D).

[6] *See* Securities Exchange Act Release No. 73590 (November 13, 2014), 79 FR 68919 (November 19, 2014) (SR–MIAX–2014–56).

[7] *See* Securities Exchange Act Release No. 78265 (July 8, 2016), 81 FR 45578 (July 14, 2016) (SR–MIAX–2016–19).

[8] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* MIAX Rule 100.

[9] *See* Exhibit 3 to SR–MIAX–2016–46.

[10] *See* Notice, *supra* note 3, at 90031.

[11] *See id.*

[12] *See id.* at 90031–32.

[13] *See id.*

[14] *See id.* at 90032.

[15] *See id.*

[16] Currently, if the market is locked or crossed as defined in Exchange Rule 1402 for the option, the Agency Order will be rejected by the System prior to initiating an Auction or a Solicitation Auction. *See* Exchange Rule 515A, Interpretations and Policies .09. The Exchange will continue to reject Agency Orders, regardless of their size, in this situation.

[17] *See* Notice, *supra* note 3, at 90032.

[18] *See id.*

[19] *See id.*

[20] *See id.*

[21] 15 U.S.C. 78f(b). 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).

[22] 15 U.S.C. 78f(b)(5).

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 customers, issuers, brokers and dealers.

As part of its proposal, the Exchange provided summary data on Exhibit 3 of its filing for the period January through June 2015, which the Exchange and Commission both publicly posted on their respective Web sites. Among other things, this data is useful in assessing the level of price improvement in the Auction, in particular for orders for fewer than 50 contracts; the degree of competition for order flow in such Auctions; and a comparison of liquidity in the Auctions with liquidity on the Exchange generally.[23] Based on the data provided by the Exchange, the Commission believes that the Exchange's price improvement auction generally delivers a meaningful opportunity for price improvement to orders, including orders for fewer than 50 contracts, when the spread in the option is $0.02 or more. At the same time, as the Exchange has recognized, the data do not demonstrate that such orders have realized significant price improvement when the NBBO has a bid/ask differential of $0.01.[24] Recognizing this, the Exchange has proposed to amend the Auction eligibility requirements to reject an Agency Order of less than 50 contracts where the NBBO has a bid/ask differential of $0.01. The Exchange's proposal to modify the Auction eligibility requirements for orders of fewer than 50 contracts and seek permanent approval of the Pilot, as amended with the new provision, will, in the Commission's view, promote opportunities for price improvement.

The Commission believes that, particularly for Auctions for fewer than 50 contracts when the bid/ask differential is wider than $0.01, the data provided by the Exchange support its proposal to make the Pilot permanent. The data demonstrate that the Auction generally provides price improvement opportunities to orders, including orders of retail customers and particularly when the bid/ask differential is wider than $0.01, that there is meaningful competition for orders on the Exchange; and that there exists an active and liquid market functioning on the Exchange outside of the Auction.[25] The Commission further believes that the proposed revisions to the eligibility requirements for Agency Orders of fewer than 50 contracts with respect to circumstances when the NBBO is $0.01 wide should help to enhance the operation of the Auction by limiting its use for smaller orders to circumstances when there are more meaningful opportunities for price improvement, and should benefit investors and others in a manner that is consistent with the Act. Thus, the Commission has determined to approve the Exchange's proposed revisions to Rule 515A and to approve the Pilot, as proposed to be modified, on a permanent basis.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[26] that the proposed rule change (SR–MIAX–2016–46), be and hereby is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–01615 Filed 1–24–17; 8:45 am]

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[23] *See* Exhibit 3 to SR–MIAX–2016–46.

[24] *See* Notice, *supra* note 3, at 90032.

[25] *See* Exhibit 3 to SR–MIAX–2016–46.

[26] 15 U.S.C. 78s(b)(2).

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79840; File No. SR–ISEGemini–2016–23]

Self-Regulatory Organizations; ISE Gemini, LLC; Order Granting Approval of Proposed Rule Change To Amend ISE Gemini Rule 723 and To Make Pilot Program Permanent

January 18, 2017.

I. Introduction

On December 12, 2016, ISE Gemini, LLC (the ''Exchange'' or ''ISE Gemini'') 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 eligibility requirements for its Price Improvement Mechanism (''PIM'' or ''Auction'') and make permanent those aspects of the PIM that are currently operating on a pilot basis. The proposed rule change was published for comment in the **Federal Register** on December 19, 2016.[3] The Commission received no comments regarding the proposal. This order approves the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 79541 (December 13, 2016), 81 FR 91974 (''Notice'').

II. Description of the Proposal

The Exchange adopted PIM as part of its application to be registered as a national securities exchange under its previous name of Topaz Exchange, LLC (''Topaz'').[4] Pursuant to ISE Gemini Rule 723, an Electronic Access Member (''EAM'') may electronically submit for execution an order it represents as agent (''Agency Order'') against principal interest or against a solicited order for the full size of the Agency Order, provided it submits the Agency Order for electronic execution into the PIM (a ''Crossing Transaction''). Parts of the PIM are currently operating on a pilot basis (''Pilot''),[5] which is set to expire on January 18, 2017.[6] The Exchange proposes to make the Pilot permanent, and also proposes to amend the Auction eligibility requirements for certain Agency Orders of less than 50 option contracts.

A. PIM Eligibility Requirements for Agency Orders of Fewer than 50 Contracts

Currently, the PIM may be initiated if certain conditions are met. The Crossing Transaction must be entered only at a price that is equal to or better than the National Best Bid/Offer (''NBBO'') on the opposite side of the market from the Agency Order, and better than the limit order or quote on the ISE Gemini order book on the same side of the Agency Order.[7]

ISE Gemini proposes to amend ISE Gemini Rule 723(b) to require EAMs to provide at least $0.01 price improvement for an Agency Order if that order is for less than 50 option contracts and if the difference between the NBBO is $0.01. For the period beginning January 19, 2017 until a date specified by the Exchange in a Regulatory Information Circular, which date shall be no later than April 15, 2017, ISE Gemini will adopt a member conduct standard to implement this

[4] *See* Securities Exchange Act Release No. 70050 (July 26, 2013), 78 FR 46622 (August 1, 2013) (File No. 10–209) (''Exchange Approval Order''). The Exchange's PIM was largely based on a similar functionality offered by the International Securities Exchange, LLC (''ISE''). *See id.* The Exchange subsequently changed its name to ISE Gemini. *See* Securities Exchange Act Release No. 71586 (February 20, 2014), 79 FR 10861 (February 26, 2014) (SR–Topaz–2014–06).

[5] Two components of PIM were approved by the Commission on a pilot basis: (1) the early conclusion of the PIM; and (2) no minimum size requirement of orders.

[6] *See* Securities Exchange Act Release No. 78343 (July 15, 2016), 81 FR 47483 (July 21, 2016) (SR–ISEGemini–2016–07) (''PIM July 2016 Extension'').

[7] *See* ISE Gemini Rule 723(b)(1).

requirement.[8] Under this provision, ISE Gemini is proposing to amend the Auction Eligibility Requirements to require that, if the Agency Order is for less than 50 option contracts, and if the difference between the NBBO is $0.01, an EAM shall not enter a Crossing Transaction unless such Crossing Transaction is entered at a price that is one minimum price improvement increment better than the NBBO on the opposite side of the market from the Agency Order, and better than any limit order on the limit order book on the same side of the market as the Agency Order. This requirement will apply regardless of whether the Agency Order is for the account of a public customer, or where the Agency Order is for the account of a broker dealer or any other person or entity that is not a Public Customer.

Failure to provide such price improvement will subject members to the fines set forth in ISE Rule 1614(d)(4).[9] The Exchange stated that it will conduct electronic surveillance of the PIM to ensure that members comply with the proposed price improvement requirements for option orders of less than 50 contracts.[10]

The Exchange is also proposing a systems-based mechanism to implement this price improvement requirement, which shall be effective following the migration of a symbol to INET, the platform operated by Nasdaq, Inc. that will also operate the PIM.[11] Under this provision, if the Agency Order is for less than 50 option contracts, and if the difference between the NBBO is $0.01, the Crossing Transaction must be entered at one minimum price improvement increment better than the NBBO on the opposite side of the market from the Agency Order and better than the limit order or quote on the ISE Gemini order book on the same side of the Agency Order.

The Exchange will retain the current requirements for PIM eligibility in all other instances. Accordingly, if the Agency Order is for 50 option contracts or more or if the difference between the NBBO is greater than $0.01, the Crossing Transaction must be entered only at a price that is equal to or better than the NBBO and better than the limit order or quote on the ISE Gemini order book on the same side as the Agency Order.

The Exchange believes that these changes to PIM may provide additional opportunities for Agency Orders of fewer than 50 option contracts to receive price improvement over the NBBO where the difference in the NBBO is $0.01 and therefore encourage the increased submission of orders of under 50 option contracts.[12] The Exchange notes that the statistics for the current pilot, which include, among other things, price improvement for orders of fewer than 50 option contracts under the current Auction eligibility requirements, show relatively small amounts of price improvement for such orders.[13] ISE Gemini believes that the proposed requirements will therefore increase the price improvement that orders of fewer than 50 option contracts may receive in PIM.[14]

B. Pilot Program

Two components of the PIM were approved by the Commission on a pilot basis: (1) The early conclusion of the PIM; [15] and (2) no minimum size requirement of orders. The provisions were approved for a pilot period that currently expires on January 18, 2017.[16] The Exchange proposes to have the Pilot approved on a permanent basis.

During the Pilot period, the Exchange submitted certain data periodically as required by the Commission, to provide supporting evidence that, among other things, there is meaningful competition for all size orders, there is significant price improvement available through the PIM, and that there is an active and liquid market functioning on the Exchange outside of the Auction mechanism.[17]

1. No Minimum Size Requirement

Supplemental Material .03 to Rule 723 provides that, as part of the current Pilot, there will be no minimum size requirement for orders to be eligible for the Auction. The Exchange believes that the data gathered since the approval of the Pilot, which it discussed in the Notice, establishes that there is liquidity and competition both within the PIM and outside of the PIM, and that there are opportunities for significant price improvement within the PIM.[18]

The Exchange compiled price improvement data in orders from January through June 2016. For January 2016, where the order was on behalf of a Public Customer, the order was for 50 contracts or less, and ISE Gemini was at the NBBO, the most contracts traded (4,192) occurred when the spread was between $0.05 and $0.10.[19] Of these, the greatest number of contracts (1,400) received $0.03 price improvement. In comparison, 6 contracts that traded at this spread received no price improvement. When the spread was $0.01 for this same category, a total of 499 contracts traded; 349 contracts received no price improvement, and 150 received $0.01 price improvement.[20]

In comparison, in January 2016, where the order was on behalf of a Public Customer, and the order was for greater than 50 contracts, and ISE Gemini was at the NBBO, the most contracts traded (1,495) occurred where the spread was $0.02. Of those contracts, the greatest number of contracts (979) received $0.01 price improvement, and 456 contracts received no price improvement.[21]

In January 2016, where the order was on behalf of a Public Customer, the order was for 50 contracts or less, and ISE Gemini was not at the NBBO, the most contracts traded (1,403) occurred when the spread was between $0.05 and $0.10. Of this category, the greatest number of contracts (570) received

[8] The Exchange notes that its indirect parent company, U.S. Exchange Holdings, Inc. has been acquired by Nasdaq, Inc. *See* Securities Exchange Act Release No. 78119 (June 21, 2016), 81 FR 41611 (June 27, 2016) (SR–ISEGemini–2016–05). Pursuant to this acquisition, ISE Gemini platforms are migrating to Nasdaq platforms, including the platform that operates PIM. ISE Gemini intends to retain the proposed member conduct standard requiring price improvement for options orders of under 50 contracts where the difference between the NBBO is $0.01 until the ISE Gemini platforms and the corresponding symbols are migrated to the platforms operated by Nasdaq, Inc. *See* Notice, *supra* note 3, at 91975 n.7.

[9] In a separate proposed rule change, ISE is proposing to adopt similar price improvement requirements for orders of fewer than 50 contracts for its PIM. As part of that rule change, ISE is proposing to amend ISE Rule 1614 (Imposition of Fines for Minor Rule Violations) to add Rule 1614(d)(4), which will provide that, beginning January 19, 2017, any member who enters an order into PIM for fewer than 50 contracts, while the National Best Bid or Offer spread is $0.01, must provide price improvement of at least one minimum price improvement increment better than the NBBO on the opposite side of the market from the Agency Order, which increment may not be smaller than $0.01. Failure to provide such price improvement will result in members being subject to the following fines: $500 for the second offense, $1,000 for the third offense, and $2,500 for the fourth offense. Subsequent offenses will subject the member to formal disciplinary action. ISE will review violations on a monthly cycle to assess these violations. The Commission notes that the ISE proposal was approved in conjunction with this proposal. *See* Securities Exchange Act Release No. 34–79829 (January 18, 2017) (SR–ISE–2016–29).

[10] *See* Notice, *supra* note 3, at 91975–76.

[11] *See id.* at 91976. *See also* proposed ISE Gemini Rule 723(b).

[12] *See* Notice, *supra* note 3, at 91976.

[13] *See id.*

[14] *See id.*

[15] *See* ISE Gemini Rule 723(c)(5) and (d)(4).

[16] *See* PIM July 2016 Extension, *supra* note 6.

[17] *See* Supplementary Material .03 to ISE Gemini Rule 723.

[18] *See* Notice, *supra* note 3, at 91976–77. *See also* Exhibit 3 to SR–ISEGemini–2016–23.

[19] According to the Exchange, this discussion of January 2016 data is illustrative of data that was gathered between January 2016 and July 2016. *See* Notice, *supra* note 3, at 91976 n.13. The complete underlying data for January 2016 through June 2016 was attached as Exhibit 3 to the Notice.

[20] *See* Notice, *supra* note 3, at 91977.

[21] *See id.*

$0.01 price improvement.[22] In comparison, when the spread was $0.01 in this same category, a total of 80 contracts traded, and all received price improvement.[23]

In comparison, in January 2016, where the order was on behalf of a Public Customer, and order was for greater than 50 contracts, and ISE Gemini was not at the NBBO, the most contracts traded (4,846) occurred where the spread was $0.05—$0.10. Of those contracts, the greatest number of contracts (1,234) received $0.01 price improvement, and 1,008 contracts received no price improvement.[24]

ISE Gemini believes that the data gathered during the Pilot period indicates that there is meaningful competition in PIM auctions for all size orders, there is an active and liquid market functioning on the Exchange outside of the auction mechanism, and that there are opportunities for significant price improvement for orders executed through PIM.[25] The Exchange therefore has requested that the Commission approve the no-minimum size requirement on a permanent basis.

2. Early Conclusion of the PIM

Supplemental Material .05 to Rule 723 provides that Rule 723(c)(5) and Rule 723(d)(4), which relate to the termination of the exposure period by unrelated orders shall be part of the current Pilot. Rule 723(c)(5) provides that the exposure period will automatically terminate (i) at the end of the 500 millisecond period,[26] (ii) upon the receipt of a market or marketable limit order on the Exchange in the same series, or (iii) upon the receipt of a nonmarketable limit order in the same series on the same side of the market as the Agency Order that would cause the price of the Crossing Transaction to be outside of the best bid or offer on the Exchange. Rule 723(d)(4) provides that, when a market order or marketable limit order on the opposite side of the market from the Agency Order ends the exposure period, it will participate in the execution of the Agency Order at the price that is mid-way between the best counter-side interest and the NBBO, so that both the market or marketable limit order and the Agency Order receive price improvement. Transactions will be rounded, when necessary, to the $0.01 increment that favors the Agency Order.

As with the no minimum size requirement, the Exchange has gathered data on these three conditions to assess the effect of early PIM conclusions on the Pilot. For the period from January 2016 through June 2016, there were a total of 65 early terminated Auctions. The number of orders in early terminated PIM auctions constituted 0.08% of total PIM orders.[27] There were a total of 325 contracts that traded through early terminated Auctions. The number of contracts in early terminated PIM auctions represented 0.11% of total PIM contracts.[28]

Based on the data gathered during the Pilot, the Exchange does not anticipate that any of these conditions will occur with significant frequency, or will otherwise significantly affect the functioning of the PIM.[29] The Exchange therefore has requested that the Commission approve this aspect of the Pilot on a permanent basis.

III. 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 and, in particular, with Section 6(b) of the Act.[30] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[31] 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect customers, issuers, brokers and dealers.

As part of its proposal, the Exchange provided summary data on Exhibit 3 of its filing for the period January through June 2016, which the Exchange and Commission both publicly posted on their respective Web sites. Among other things, this data is useful in assessing the level of price improvement in the Auction, in particular for orders of fewer than 50 contracts; the degree of competition for order flow in such Auctions; and a comparison of liquidity in the Auctions with liquidity on the Exchange generally.[32] Based on the data provided by the Exchange, the Commission believes that the Exchange's price improvement auction generally delivers a meaningful opportunity for price improvement to orders, including orders for fewer than 50 contracts, when the spread in the option is $0.02 or more. At the same time, as the Exchange has recognized, the data do not demonstrate that such orders have realized significant price improvement when the NBBO has a bid/ask differential of $0.01.[33] Recognizing this, the Exchange has proposed to amend the Auction eligibility requirements to require the Initiating Participant to guarantee at least $0.01 of price improvement for Agency Orders of fewer than 50 contracts where the NBBO has a bid/ask differential of $0.01, whether or not the Exchange BBO is the same as the NBBO.

The Exchange's proposal to modify the Auction eligibility requirements for orders of fewer than 50 contracts and seek permanent approval of the Pilot, as amended with the new provision, will, in the Commission's view, promote opportunities for price improvement for such orders when the NBBO is $0.01 wide, while continuing to provide opportunities for price improvement when spreads are wider than $0.01.

In addition, the Commission has carefully evaluated the Pilot data and has determined that it would be beneficial to customers and to the options market as a whole to approve on a permanent basis the provisions concerning early conclusion of the PIM. The Commission notes that there have been few instances of early termination of the PIM.

The Commission believes that, particularly for Auctions for fewer than 50 contracts when the bid/ask differential is wider than $0.01, the data provided by the Exchange support its proposal to make the Pilot permanent. The data demonstrate that the Auction generally provides price improvement opportunities to orders, including orders of retail customers and particularly when the bid/ask differential is wider than $0.01; that there is meaningful competition for orders on the Exchange; and that there

[22] *See id.*

[23] *See id.*

[24] *See id.*

[25] *See id.*

[26] The Commission notes that, at the time of the filing of this proposal, the duration of the exposure period was 500 milliseconds. The Exchange recently received approval to modify the exposure period to a time period designated by the Exchange of no less than 100 milliseconds and no more than one second. *See* Securities Exchange Act Release No. 79735 (January 4, 2017), 82 FR 3043 (January 10, 2017) (SR–ISEGemini–2016–14).

[27] *See* Notice, *supra* note 3, at 91977.

[28] *See id.*

[29] *See id.*

[30] 15 U.S.C. 78f(b). 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).

[31] 15 U.S.C. 78f(b)(5).

[32] *See* Exhibit 3 to SR–ISEGemini–2016–23.

[33] *See* Notice, *supra* note 3, at 91976.

exists an active and liquid market functioning on the Exchange outside of the Auction.[34] The Commission further believes that the proposed revisions to the eligibility requirements for orders of fewer than 50 contracts with respect to circumstances when the NBBO is no more than $0.01 wide should help to enhance the operation of the Auction by providing meaningful opportunities for price improvement in such circumstances, and should benefit investors and others in a manner that is consistent with the Act.

The Commission further notes that, as discussed more fully above, ISE Gemini is initially proposing to implement is price improvement requirement for Agency Orders of fewer than 50 option contracts where the difference in the NBBO is $0.01 with a member conduct standard.[35] As described in greater detail above, ISE Gemini proposes to enforce this requirement under ISE Rule 1614(d)(4). The Commission believes that ISE Gemini's proposed member conduct standard and ISE Rule 1614(d)(4) are reasonable means to implement the price improvement requirement until implementation of its proposed systems-based mechanism for this requirement, which will become effective following the migration of a symbol to INET, the platform operated by Nasdaq, Inc. that will also operate the PIM. The Commission further notes that the Exchange has represented that its proposed member conduct standard will be effective until the migration of all symbols to the INET platform, which shall be no later than April 15, 2017.[36]

Thus, the Commission has determined to approve the Exchange's proposed revisions to ISE Gemini Rule 723(b) and Supplementary Material .03 and .05 to ISE Gemini Rule 723, and to approve the Pilot, as proposed to be modified, on a permanent basis.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[37] that the proposed rule change (SR–ISEGemini–2016–23), be and hereby is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[38]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–01618 Filed 1–24–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79816; File No. SR–CBOE–2017–003]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule

January 18, 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 January 3, 2017, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Fees Schedule. The text of the proposed rule change is also available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to make a number of amendments to its Order Routing Subsidy (ORS) and Complex Order Routing Subsidy (CORS) Programs (collectively ''Programs''). By way of background, the ORS and CORS Programs allow CBOE to enter into subsidy arrangements with any CBOE Trading Permit Holder (''TPH'') (each, a ''Participating TPH'') or Non-CBOE TPH broker-dealer (each a ''Participating Non-CBOE TPH'') that meet certain criteria and provide certain order routing functionalities to other CBOE TPHs, Non-CBOE TPHs and/or use such functionalities themselves.[3] (The term ''Participant'' as used in this filing refers to either a Participating TPH or a Participating Non-CBOE TPH). Participants in the ORS Program receive a payment from CBOE for every executed contract for simple orders routed to CBOE through their system. CBOE does not make payments under the ORS Program with respect to executed contracts in single-listed options classes traded on CBOE, or with respect to complex orders or spread orders. Similarly, participants in the CORS Program receive a payment from CBOE for every executed contract for complex orders routed to CBOE through their system. CBOE does not make payments under the CORS Program with respect to executed contracts in single-listed options classes traded on CBOE or with respect to simple orders. Currently, under both programs the Exchange pays a subsidy of $0.02 per contract for all customer (origin code ''C'') orders and a subsidy of $0.06 per contract for all non-customer orders.

The Exchange first proposes to exclude customer orders from the Programs and eliminate the customer order subsidy. The Exchange also proposes to increase the subsidy for non-customer orders from $0.06 per contract to $0.07 per contract under both ORS and CORS. The Exchange notes that another Exchange with a similar subsidy program also does not provide subsidies for customer orders.[4]

[34] *See* Exhibit 3 to SR–ISEGemini–2016–23.

[35] The Exchange stated that it will conduct electronic surveillance of the PIM to ensure that members comply with the proposed price improvement requirements for option orders of fewer than 50 contracts. *See* Notice, *supra* note 3, at 91275–76.

[36] *See* Notice, *supra* note 3, at 91275 & n.7.

[37] 15 U.S.C. 78s(b)(2).

[38] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* CBOE Fees Schedule, ''Order Router Subsidy Program'' and ''Complex Order Router Subsidy Program'' tables for more details on the ORS and CORS Programs.

[4] *See* NASDAQ PHLX LLC Pricing Schedule, Section IV(e) [sic], Other Transaction Fees, Market Access and Routing Subsidy (''MARS'').

The Exchange next proposes to amend one of the system requirements under the Programs. Specifically, the Exchange notes that to qualify for the subsidy arrangement under ORS and CORS, a Participant's order routing functionality has to, among other things, cause CBOE to be the default destination exchange for simple (under ORS) and complex (under CORS) orders, but allow any user to manually override CBOE as the default destination on an order-by-order basis. As the Exchange is proposing to eliminate subsidies for customer orders, the Exchange does not believe it's necessary to require that CBOE be set as the default destination exchange for customer orders. As such, the Exchange proposes to amend the Fees Schedule to provide that under the ORS and CORS programs, CBOE must be set as the default exchange for non-customer orders only (and still allow any user to manually override CBOE as the default destination on an order-by-order basis).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[5] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[6] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[7] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

In particular, the Exchange believes the proposed amendments to the ORS and CORS Programs are reasonable because the proposed changes still affords Participants an opportunity to receive payments to subsidize the costs associated with providing certain order routing functionalities that would otherwise go unsubsidized. Additionally, the Exchange believes the increased $0.07 per contract subsidy for non-customer orders is reasonable because it is within the range of subsidies paid by another exchange under a similar subsidy program.[8] The Exchange also believes it is reasonable, equitable and not unfairly discriminatory to maintain a subsidy for non-customer orders only under the Programs. Particularly, the Exchange notes that customer orders already have the opportunity to earn various rebates, discounts or fee caps.[9] Moreover, the Exchange notes that another exchange also does not provide subsidies for customer orders.[10]

The Exchange believes the elimination of the requirement to set CBOE as the default destination for customer orders is reasonable, equitable and not unfairly discriminatory because the Exchange will no longer be providing a subsidy for such orders.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed changes will impose an unnecessary burden on intramarket competition because they will apply equally to all participating parties. Although the subsidy for orders routed to CBOE through a Participant's system only applies to Participants of the Programs, the subsidies are designed to encourage the sending of more orders to the Exchange, which should provide greater liquidity and trading opportunities for all market participants. Additionally, although customer orders will no longer be eligible for subsidies under the programs, customer orders are eligible for other rebates, discounts or fee caps.[11] The Exchange also does not believe that such changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that, should the proposed changes make CBOE more attractive for trading, market participants trading on other exchanges can always elect to provide order routing functionality to CBOE. Additionally, to the extent that the proposed changes to the ORS and CORS Programs result in increased trading volume on CBOE and lessened volume on other exchanges, the Exchange notes that market participants trading on other exchanges can always elect to become TPHs on CBOE to take advantage of the trading opportunities.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[12] and paragraph (f) of Rule 19b–4[13] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2017–003 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2017–003. This file number should be included on the subject line if email is used. To help the Commission process and review your

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78f(b)(4).

[8] *See* supra note 4.

[9] *See e.g.,* CBOE Fees Schedule, Customer Large Trade Discount and Volume Incentive Program.

[10] *See* supra note 4.

[11] *See e.g.*, CBOE Fees Schedule, Customer Large Trade Discount and Volume Incentive Program.

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f).

comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2017–003 and should be submitted on or before February 15, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–01604 Filed 1–24–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79822; File No. SR–CHX–2017–01]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify the Examination Requirement for CHX Market Maker Authorized Traders

January 18, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1], and Rule 19b–4[2] thereunder, notice is hereby given that on January 6, 2017 the Chicago Stock Exchange, Inc. (''CHX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CHX proposes to amend the Rules of the Exchange (''CHX Rules'') to modify the examination requirement for CHX Market Maker Authorized Traders (''MMATs''). The text of this proposed rule change is available on the Exchange's Web site at (*www.chx.com*) and in 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 CHX included statements concerning the purpose of and basis for the proposed rule changes [sic] 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 CHX has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

1. Purpose

The Exchange proposes to amend CHX Rules to modify the examination requirement for CHX Market Maker Authorized Traders (''MMATs''). Specifically, the Exchange proposes to eliminate the requirement that prospective MMATs successfully complete the CHX Market Maker Authorized Trader Exam, which is an examination currently maintained and administered by the Exchange for prospective MMATs. In lieu of the CHX Market Maker Authorized Trader Exam, the Exchange proposes to require prospective MMATs to successfully complete the Series 57 Securities Trader Examination[3] and any other training and/or certification programs as may be required the Exchange.

The Exchange notes that the proposed rule change would harmonize the Exchange's MMAT examination requirement with the MMAT examination requirements of other national securities exchanges that require prospective MMATs (or equivalents) to successfully complete the Series 57 Securities Trader Examination.[4]

Background

Current Article 16, Rule 3(b) provides the registration requirements for MMATs. Thereunder, current paragraph (b)(2) provides that to be eligible for registration as an MMAT, a person must be registered with the Exchange as provided in Article 6 and complete any other training and/or certification programs as may be required. Moreover, current paragraph .01(b) of the Interpretations and Policies of Article 6, Rule 3 provides that prior to the Exchange approving a Participant's request to register an individual as an MMAT, such individual must successfully complete the Market Maker Authorized Trader Exam.

In order to further streamline and bring consistency to the qualification and registration requirements for MMATs (or equivalents) across different markets, the Exchange now proposes to eliminate the Market Maker Authorized Trader Exam and instead require prospective MMATs to successfully complete the Series 57 Securities Trader Examination in order to satisfy the Exchange's MMAT examination requirement. To this end, the Exchange proposes to delete current paragraph .01(b) of the Interpretations and Policies of Article 6, Rule 3 in its entirety and amend current Article 16, Rule 3(b)(2) to provide as follows:

> To be eligible for registration as a MMAT, a person must successfully complete the Series 57 Securities Trader Examination and any other training and/or certification programs as may be required by the Exchange.

The Exchange does not propose to amend or modify any other requirements related to MMATs or Market Makers in general.

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A Representative (as defined under CHX Article 6, Rule 2(b)) that is engaged in securities trading activities, on either an agency or principal basis, for the Participant (as defined under CHX Article 1, Rule 1(s)) with which the Representative is associated, must register with the Exchange as a Securities Trader and pass the Series 57 Securities Trader Examination. *See* CHX Article 6, Rule 3(a)(1).

[4] *See, e.g.,* NYSE Arca Equities Rule 7.21(b)(2). Other markets do not explicitly recognize an MMAT registration category but require any person engaged in the purchase or sale of securities or other similar instruments for the account of a member organization, which would include market maker traders, to be registered as a Securities Trader and pass the Series 57 Securities Trader Examination. *See e.g.,* paragraph .10 of the Supplementary Material under NYSE Rule 345; *see also, e.g.,* NASDAQ PHLX Rule 613(f)(2).

2. Statutory Basis

The Exchange believes that proposed rule change is consistent with Section 6(b) of the Act [5] in general and Section 6(b)(5) of the Act [6] in particular, which requires, among other things, that the Exchange's rules 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, and to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

In particular, the Exchange believes that the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system by promoting consistency and uniformity among different markets [7] regarding the qualification and registration requirements for individuals engaged in market making activities. For those individuals that are engaged in market making activities across different markets, the proposed rule change will result in efficiencies with respect to such individuals' registration and compliance efforts.

B. Self-Regulatory Organization's Statement of Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change will reduce the regulatory burden placed on market participants engaged in market making activities across different markets. The Exchange believes that the harmonization of the MMAT examination requirements across the various markets will reduce burdens on competition by removing impediments to participation in the national market system.

C. Self-Regulatory Organization's Statement on Comments Regarding the Proposed Rule Changes Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [8] and Rule 19b–4(f)(6)(iii) thereunder.[9] Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [10] and subparagraph (f)(6) of Rule 19b–4 thereunder.[11]

A proposed rule change filed under Rule 19b–4(f)(6) [12] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. In this filing, the Exchange has asked that the Commission waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing so that it may become operative on January 9, 2017.

The Exchange notes that the proposal meets the required qualifications for effectiveness on filing under Section 19(b)(3)(A) of the Act [14] and paragraph (f)(6) of Rule 19b–4 thereunder.[15] As such, the Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act [16] and paragraph (f)(6) of Rule 19b–4 thereunder.[17] Specifically, the Exchange notes that the waiver is appropriate as it would be unduly burdensome to prospective MMATs, especially those who have already passed the Series 57 Securities Trader Examination, to require them to take the CHX Market Maker Authorized Trader Exam weeks or days before the proposed rule change is to become operative. Moreover, based on the same reasons, waiver of the 30-day operative delay is consistent with the protection of investors and the public interest.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest while not imposing any significant burden on competition because it will make the Chx's qualification and registration requirements for MMATs consistent with the qualification requirements of the other markets. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative on January 9, 2017.[18]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) of the Act to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the 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–CHX–2017–01 on the subject line.

Paper Comments

- Send paper comments in triplicate to Robert W. Errett, Deputy Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–CHX–2017–01. 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

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] *See supra* note 4.

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement. 17 CFR 240.19b–4(f)(6).

[12] *Id.*

[13] *Id.*

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4.

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4.

[18] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the CHX. 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–CHX–2017–01 and should be submitted on or before February 15, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–01607 Filed 1–24–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79832; File No. SR–BOX–2017–01]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule on the BOX Market LLC ("BOX") Options Facility

January 18, 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 January 5, 2017, BOX Options Exchange LLC (the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is filing with the Securities and Exchange Commission ("Commission") a proposed rule change to amend the Fee Schedule to on the BOX Market LLC ("BOX") options facility. While changes to the fee schedule pursuant to this proposal will be effective upon filing, the changes will become operative on January 9, 2017. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Section III (Complex Order Transaction Fees) to specify that all Complex Order transactions executed through the Exchange's auction mechanisms will be subject to Section I (Exchange Fees) and II (Liquidity Fees and Credits) of the BOX Fee Schedule. The Exchange recently amended its rules to permit Complex Order[5] transactions to execute through the Solicitation Auction mechanism[6] and the Exchange is submitting this filing to clarify the fees that are applicable to these transactions.

Generally, Complex Order transactions are subject to the fees and credits set forth in Section III (Complex Order Transaction Fees) of the BOX Fee Schedule while transactions executed through the Facilitation and Solicitation auction mechanisms are subject to Sections I (Exchange Fees) and II (Liquidity Fees and Credits). The Exchange proposes to add language that clarifies that Complex Order transactions executed through Auction Mechanisms[7] will be subject to Sections I (Exchange Fees) and II (Liquidity Fees and Credits).

Under Section I (Exchange Fees), the Exchange proposes the following fees for Complex Order transactions executed through the Solicitation auction mechanism. For Agency Orders[8] and Solicitation Orders, Professional Customers, Broker Dealers and Market Makers will be charged $0.15 in Penny and Non-Penny Pilot Classes, and Public Customers will not be charged. For Responses in the Solicitation Auction, all account types will be charged $0.25 for Penny Pilot Classes and $0.40 for Non-Penny Pilot Classes.

The Exchange then proposes to treat Complex Order transactions executed through the Solicitation mechanism in the same manner as single legged Solicitation transactions for liquidity fees and credits, which are applied in addition to any applicable exchange fees as described in Section I of the Fee Schedule. The fee structure for liquidity fees and credits for Complex Orders executed through the Solicitation mechanisms will be as follows:

[19] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] As defined in Rule 7240(a)(5), the term "Complex Order" means any order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, for the same account, in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) and for the purpose of executing a particular investment strategy.

[6] *See* Securities [sic] Release No. 79557 (December 14, 2016), 81 FR 92919 (December 20, 2016) (Notice of Filing and Immediate Effectiveness SR–BOX–2016–57).

[7] BOX's auction mechanisms include the Price Improvement Period ("PIP"), Complex Order Price Improvement Period ("COPIP"), Facilitation Auction and Solicitation Auction.

[8] An Agency Order is the block-size order that an Order Flow Provider "OFP" seeks to facilitate as agent through the Facilitation Auction or Solicitation Auction mechanism.

Facilitation and solicitation transactions	Fee for adding liquidity (all account types)	Credit for removing liquidity (all account types)
Non-Penny Pilot Classes	$0.75	(0.75)
Penny Pilot Classes	$0.25	(0.25)

Complex Order transactions executed through the Solicitation mechanism will be assessed a ''removal'' credit only if the Agency Order does not trade with their contra order. Responses to Complex Order transactions executed through the Solicitation mechanism shall be charged the ''add'' fee.

Finally, the Exchange is proposing to make additional non-substantive changes to the Fee Schedule. Specifically, the Exchange is renumbering certain footnotes to accommodate the above proposed changes to the Fee Schedule.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act, in general, and Section 6(b)(4) and 6(b)(5)of the Act,[9] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among BOX Participants and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposal to specify that Complex Order transactions executed through the Exchange's Auction Mechanisms are subject to fees and credits in Sections I (Exchange Fees) and II (Liquidity Fees and Credits) is reasonable, equitable and not unfairly discriminatory. The new ability for Complex Order transactions to execute through the Solicitation Auction mechanism is similar to Complex Orders executing through the COPIP and Facilitation Auction mechanisms. As such, the Exchange believes it is reasonable for the fees for Complex Orders executed through the Solicitation mechanism to mimic the current COPIP and Facilitation mechanism transaction fees.[10] In the BOX Fee Schedule, COPIP transactions are not subject to Section III (Complex Order Transactions) and are instead treated the same as PIP transactions. Similarly, Complex Order Facilitation Auction transactions are not subject to Section III (Complex Order Transactions) and are instead treated the same as single-legged Facilitation transactions in Section I. The Exchange believes the proposed fees will allow the Exchange to be competitive with other exchanges and to apply fees and credits in a manner that is equitable among all BOX Participants. The proposed fees are intended to attract Complex Orders to the Exchange by offering market participants incentives to submit their Complex Orders through the Exchange's Solicitation auction mechanism. The Exchange believes it is appropriate to provide incentives for market participants to submit orders to the auction mechanisms, resulting in greater liquidity and ultimately benefiting all Participants trading on the Exchange.

Exchange Fees

Currently, for Facilitation Orders, the Exchange assesses a $0.15 per contract fee for Professional Customers, Broker Dealers and Market Makers in Penny and Non-Penny Pilot Classes and does not assess a fee for Public Customers. The Exchange proposes to assess the same fees for Solicitation Orders. The Exchange believes that charging Professional Customers and Broker Dealers and Market Makers more than Public Customers for Solicitation Orders is reasonable, equitable and not unfairly discriminatory. The securities markets generally, and BOX in particular, have historically aimed to improve markets for investors and develop various features within the market structure for Public Customer benefit. The Exchange believes that charging lower fees to Public Customers in Facilitation and Solicitation transactions is reasonable and, ultimately, will benefit all Participants trading on the Exchange by attracting Public Customer order flow.

Currently, for Responses in the Facilitation Auction mechanism, the Exchange assesses a $0.25 fee in Penny Pilot Classes and a $0.40 fee in Non-Penny Pilot Classes, regardless of account type. The Exchange proposes to assess the same fees for Responses in the Solicitation Auction mechanism. The Exchange believes it is reasonable, equitable and not unfairly discriminatory to charge higher exchange fees for responders to Complex Orders in the Solicitation auction than for initiators of these orders. Moreover, the higher fees for responders to Complex Orders are similar with fees charged by another options exchange.[11] For example, at the ISE, fees for Responses to Crossing Orders are $0.50, regardless of Participant type, in both Penny and Non-Penny Pilot Classes where fees for initiating Crossing Orders range from $0.20 and $0.25. Further, the Exchange believes its proposed fees for Responses in the Solicitation Auction mechanism are reasonable as they are identical to the fees charged for Complex Orders executed through the Facilitation auction mechanism on the Exchange. The Exchange also notes that the proposed fees for Responses to Solicitation Orders are not unfairly discriminatory because they apply equally to all Participants.

The Exchange believes it is reasonable to establish different fees for Solicitation transactions in Penny Pilot Classes compared to transactions in Non-Penny Pilot Classes. The Exchange makes this distinction throughout the BOX Fee Schedule, including the Exchange Fees for PIP and COPIP Transactions. The Exchange believes it is reasonable to establish higher fees for Non-Penny Pilot Classes because these Classes are typically less actively traded and have wider spreads.

Liquidity Fees and Credits

The Exchange believes the proposed liquidity fees and credits for Complex Orders executed through the Solicitation auction mechanism are equitable and not unfairly discriminatory. Specifically, the Exchange believes the liquidity fees and credits fee structure aims to attract order flow to the Solicitation mechanism, potentially providing greater liquidity within the overall BOX Market to the benefit of all BOX market participants. The Exchange notes that the proposed fees and credits for Complex Order transactions executed through the Solicitation mechanism offset one another in any particular transaction.

[9] 15 U.S.C. 78f(b)(4) and (5).

[10] *See* Securities Exchange Release Nos. 71312 (January 15, 2014), 79 FR 3649 (January 22, 2014) (SR–BOX–2014–01); 78827 (September 13, 2016), 81 FR 64218 (September 19, 2016) (SR–BOX–2016–42); where the Exchange established fees for Complex Orders submitted to the PIP and the Facilitation Mechanisms in the BOX Fee Schedule, respectively.

[11] *See* International Securities Exchange (''ISE'') Fee Schedule Section I available at *https://www.ise.com/assets/documents/OptionsExchange/legal/fee/ISE_fee_schedule.pdf.*

The result is that BOX will collect a fee from Participants that add liquidity on BOX and credit another Participant an equal amount for removing liquidity. Stated otherwise, the collection of these liquidity fees will not directly result in revenue to BOX, but will simply allow BOX to provide the credit incentive to Participants in order to attract order flow. The Exchange believes it is appropriate to provide incentives to market participants to direct order flow to remove liquidity from BOX, similar to various and widely-used, exchange-sponsored payment for order flow programs. Further, the Exchange believes that fees for adding liquidity on BOX will not deter Participants from seeking to add liquidity to the BOX market so that they may interact with those participants seeking to remove liquidity.

The Exchange continues to believe it is reasonable to establish different fees and credits for Solicitation transactions in Penny Pilot Classes compared to transactions in Non-Penny Pilot Classes. The Exchange makes this distinction throughout the BOX Fee Schedule, including the liquidity fees and credits for PIP and COPIP Transactions. The Exchange believes it is reasonable to establish higher fees and credits for Non-Penny Pilot Classes because these Classes are typically less actively traded and have wider spreads. The Exchange believes that offering a higher rebate will incentivize order flow in Non-Penny Pilot issues on the Exchange, ultimately benefitting all Participants trading on BOX.

Further, the Exchange continues to believe it is reasonable, equitable and not unfairly discriminatory to only assess liquidity fees and credits on Agency Orders that do not trade with their contra order, and the Responses to these Orders. As stated above, liquidity fees and credits are meant to incentivize order flow, and the Exchange believes incentives are not necessary for internalized orders in these mechanisms that only trade against their contra order. Additionally, other Exchanges also make this distinction in their Solicitation auction mechanism.[12]

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing exchanges. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is designed to provide greater specificity and precision within the Fee Schedule with respect to the fees that will be applicable to Complex Order transactions executed through the Exchange's Solicitation auction mechanism.

The Exchange believes that adopting these fees will not impose a burden on competition among various Exchange Participants. The proposed fees are meant to mimic the fees currently assessed for Complex Orders executed through the Facilitation auction mechanism. Submitting an order through an auction mechanism is entirely voluntary and Participants can determine which type of order they wish to submit, if any, to the Exchange.

Further, the Exchange believes that the proposed fees will enhance competition between exchanges because it is designed to allow the Exchange to better compete with other exchanges for Complex Order flow. In this regard, the new feature which allows Complex Order transactions to execute through the Solicitation mechanism is being introduced by the Exchange and BOX is unable to absolutely determine the impact that the proposed fees proposed herein will have on trading. That said, however, the Exchange believes that the proposed fees would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Exchange Act[13] and Rule 19b–4(f)(2) thereunder,[14] because it establishes or changes a due, or fee.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BOX–2017–01 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BOX–2017–01. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for

[12] *See* ISE Schedule of Fees at *http://www.ise.com/assets/documents/OptionsExchange/legal/fee/ISE_fee_schedule.pdf.* Under the ISE Fee Schedule, in the equivalent of Penny Pilot Classes, the initiator receives a ''break-up'' rebate only for contracts that are submitted to the Facilitation and Solicitation mechanisms that do not trade with their contra order. The responder fee for these Orders is only applied to any contracts for which the rebate is provided.

[13] 15 U.S.C. 78s(b)(3)(A)(ii).

[14] 17 CFR 240.19b–4(f)(2).

inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2017–01, and should be submitted on or before February 15, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–01611 Filed 1–24–17; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14911 and #14912]

North Carolina Disaster Number NC–00081

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 15.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of North Carolina (FEMA–4285–DR), dated 10/10/2016.

Incident: Hurricane Matthew.

Incident Period: 10/04/2016 through 10/24/2016.

Effective Date: 01/09/2017.

Physical Loan Application Deadline Date: 01/23/2017.

EIDL Loan Application Deadline Date: 07/10/2017.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of NORTH CAROLINA, dated 10/10/2016 is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 01/23/2017.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Cynthia G. Pitts,

Acting Associate Administrator, for Disaster Assistance.

[FR Doc. 2017–01584 Filed 1–24–17; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60 Day Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new and/or currently approved information collection.

DATES: Submit comments on or before March 27, 2017.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collections, to Jamie Davenport, Supervisory Financial Analyst, Office of Economic Opportunity, Small Business Administration, 409 3rd Street, 8th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Jamie Davenport, Supervisory Financial Analyst, 202–207–7516 *jamie.davenport@sba.gov.* Curtis B. Rich, Management Analyst, 202–205–7030 *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION: This revised information collection is submitted to SBA by lenders that are applying for participation in SBA's Community Advantage Pilot Program. SBA uses the information to evaluate the lenders' eligibility and qualifications for participation in the pilot program.

Solicitation of Public Comments

SBA is requesting comments on (a) Whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Title: ''Community Advantage Lender Participation Application''.

Description of Respondents: SBA Lenders.

Form Number: 2301.

Annual Responses: 25.

Annual Burden: 175.

Curtis Rich.

Management Analyst.

[FR Doc. 2017–01585 Filed 1–24–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF STATE

[Public Notice 9860]

Notice of Determinations; Culturally Significant Objects Imported for Exhibition Determinations: ''Degas, Impressionism and the Paris Millinery Trade'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257–1 of December 11, 2015), I hereby determine that the objects to be included in the exhibition ''Degas, Impressionism and the Paris Millinery Trade,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Saint Louis Art Museum, St. Louis, Missouri, from on or about February 12, 2017, until on or about May 7, 2017, at the Corporation of the Fine Arts Museums | Fine Arts Museums of San Francisco: Legion of Honor, San Francisco, California, from on or about June 24, 2017, until on or about September 24, 2017, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S.

[15] 17 CFR 200.30–3(a)(12).

Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Alyson Grunder,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2017–01593 Filed 1–24–17; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 9861]

Notice of Determinations; Culturally Significant Objects Imported for Exhibition Determinations: ''Tomb Treasures: New Discoveries From China's Han Dynasty'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257–1 of December 11, 2015), I hereby determine that the objects to be included in the exhibition ''Tomb Treasures: New Discoveries from China's Han Dynasty,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodians. I also determine that the exhibition or display of the exhibit objects at the Asian Art Museum, San Francisco, California, from on or about February 17, 2017, until on or about May 28, 2017, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Alyson Grunder,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2017–01594 Filed 1–24–17; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 9859]

Notice of Determinations; Culturally Significant Object Imported for Exhibition Determinations: ''Visiting Masterpiece: Juan de Mesa's St. John the Baptist'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257–1 of December 11, 2015), I hereby determine that the object to be included in the exhibition ''Visiting Masterpiece: Juan de Mesa's St. John the Baptist,'' imported from abroad for temporary exhibition within the United States, is of cultural significance. The object is imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit object at The Art Institute of Chicago, Chicago, Illinois, from on or about February 3, 2017, until on or about October 17, 2018, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including an object list, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Alyson Grunder,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2017–01596 Filed 1–24–17; 8:45 am]

BILLING CODE 4710–05–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36086]

Dakota Southern Railway Company—Modified Certificate of Public Convenience and Necessity—Yankton, Bon Homme, and Charles Mix Counties, S.D.

On December 29, 2016, Dakota Southern Railway Company (DSRC), a Class III rail carrier, filed a notice for a modified certificate of public convenience and necessity, pursuant to 49 CFR pt. 1150 subpart C—*Modified Certificate of Public Convenience and Necessity,* to lease and operate approximately 54.5 miles of rail line (the Line) owned by the State of South Dakota (the State). The Line is located between MP 0.0 (also known as Engineer's Survey Station Number 00+00) at the intersection of the North Sioux City to Mitchell line and extending in a westerly direction to a point of termination at MP 54.5[1] (also known as Engineer's Survey Station Number 1707+17), in and through the Counties of Yankton, Bon Homme, and Charles Mix, S.D.

DSRC states that the entire rail line from Napa, S.D. (MP 0.0) to Platte, S.D. (MP 83.3), which includes the Line, was authorized for abandonment in 1980 by the United States District Court for the Northern District of Illinois following the issuance of a report by the Interstate Commerce Commission (ICC) recommending abandonment. *See In re Chi., Milwaukee, St. Paul & Pac. R.R.,* No 77 B 8999 (N.D. Ill. June 2, 1980, Order 342A); *Richard B. Ogilvie, Tr. of the Prop. of Chi., Milwaukee, St. Paul & Pac. R.R.—Aban.—in S.D., Iowa & Neb.,* AB–7 (Sub-No. 88) (ICC served May 14, 1980). According to DSRC, although authorized for abandonment, the entire line was not abandoned but instead acquired by the State of South Dakota in 1980. DSRC states that, since 1980, the entire line, or segments thereof, have been leased and subleased to various entities, and various entities have held ICC- or STB-authorized operating rights over the entire line or segments thereof. DSRC further states that, in 2007, the State railbanked the segment between Ravinia, S.D. (MP 54.4) [2] and Platte, S.D.

[1] The verified notice states that the Line, or service on it, will terminate at MP 54.4 (DSRC Notice 3, 5) and MP 54.5 (DSRC Notice 1), while the lease agreement between DSRC and the State specifies that service will terminate at MP 54.5. (DSRC Notice Ex. C at ¶ A.)

[2] The segment of line railbanked by the State begins at MP 54.5, not MP 54.4 as stated by DSRC in its filing. *See S.D. Ry.—Notice of Interim Trail Use & Termination of Modified Rail Certificate,* FD 31874, slip op. at 1 (STB served July 17, 2007).

(MP 83.3). *See S.D. Ry.—Notice of Interim Trail Use & Termination of Modified Rail Certificate,* FD 31874 (STB served July 17, 2007). At MP 0.0, the Line has interchange capability with BNSF Railway Company (direct access and haulage agent).

Effective December 1, 2016, DSRC leased the Line from the South Dakota Department of Transportation and agreed to assume all common carrier obligations related to the operation of the Line. (*See* DSRC Notice Ex. C at ¶¶ 3, 9.) The lease calls for commencement of the requested service no later than December 31, 2016. (*Id.* at ¶ 9.) The term of the lease is 10 years from the effective date, unless terminated earlier pursuant to the terms of the agreement. (*Id.* at ¶ 22.)

The Line qualifies for a modified certificate of public convenience and necessity. *See Common Carrier Status of States, State Agencies & Instrumentalities & Political Subdivisions,* FD 28990F (ICC served July 16, 1981) and 49 CFR 1150.22.

DSRC states that no subsidy is involved and that there are no preconditions for shippers to meet to receive rail service. DSRC has also provided a certificate of liability insurance for commercial general liability and excess railroad liability insurance.

This notice will be served on the Association of American Railroads (Car Service Division) as agent for all railroads subscribing to the car-service and car-hire agreement at 425 Third Street SW., Suite 1000, Washington, DC 20024; and on the American Short Line and Regional Railroad Association at 50 F Street NW., Suite 7020, Washington, DC 20001.

Board decisions and notices are available on our Web site at *WWW.STB.GOV.*

Decided: January 18, 2017.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2017–01668 Filed 1–24–17; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Sanctions Actions Pursuant to Executive Order 13304

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (OFAC) is updating the identifying information for one person whose property and interests in property are blocked pursuant to the following authorities: Executive Order (E.O.) E.O. 13304.

DATES: OFAC's actions described in this notice were effective on January 18, 2017, as further specified below.

FOR FURTHER INFORMATION CONTACT: The Department of the Treasury's Office of Foreign Assets Control: Assistant Director for Licensing, tel.: 202–622–2480, Assistant Director for Regulatory Affairs, tel.: 202–622–4855, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; or the Department of the Treasury's Office of the Chief Counsel (Foreign Assets Control), Office of the General Counsel, tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's Web site (*www.treas.gov/ofac*).

Notice of OFAC Actions

On January 18, 2017, the Associate Director of the Office of Global Targeting updated the SDN List for the individual listed below, whose property and interests in property are blocked pursuant to E.O. 13304, ''Termination of Emergencies With Respect to Yugoslavia and Modification of Executive Order 13219 of June 26, 2001'':

Individual:

DODIK, Milorad, Republic of Srpska, Bosnia and Herzegovina; DOB 12 Mar 1959; Gender Male (individual) [BALKANS].

-to-

DODIK, Milorad, Republika Srpska, Bosnia and Herzegovina; DOB 12 Mar 1959; Gender Male (individual) [BALKANS].

Dated: January 18, 2017.

Gregory T. Gatjanis,

Associate Director, Office of Global Targeting, Office of Foreign Assets Control.

[FR Doc. 2017–01683 Filed 1–24–17; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 6524

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 6524, Office of Chief Counsel—Application.

DATES: Written comments should be received on or before March 27, 2017 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Kerry Dennis, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Kerry.Dennis@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Office of Chief Counsel—Application.

OMB Number: 1545–0796.

Form Number: 6524.

Abstract: Form 6524 is used as a screening device to evaluate an applicant's qualifications for employment as an attorney with the Office of Chief Counsel. It provides data deemed critical for evaluating an applicant's qualifications such as Law School Admission Test (LSAT) score, bar admission status, type of work preference, law school, and class standing.

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.

Estimated Number of Respondents: 3,000.

Estimated Time per Respondent: 18 minutes.

Estimated Total Annual Burden Hours: 900.

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: January 3, 2017.

Tuawana Pinkston,

IRS Reports Clearance Officer.

[FR Doc. 2017–01579 Filed 1–24–17; 8:45 am]

BILLING CODE 4830–01–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 Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning S Corporation Guidance under AJCA of 2004.

DATES: Written comments should be received on or before March 27, 2017 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Tuawana Pinkston at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Kerry.dennis@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: S Corporation Guidance Under AJCA of 2004 and GOZA of 2005.

OMB Number: 1545–2114.

Regulation Project Number: TD 9422.

Abstract: Final regulations provide guidance regarding certain changes made to the rules governing S corporations under the American Jobs Creation Act of 2004 and the Gulf Opportunity Zone Act of 2005. The final regulations replace obsolete references in the current regulations and allow taxpayers to make proper use of the provisions that made changes to prior law. The final regulations include guidance on the S corporation family shareholder rules, the definitions of ''powers of appointment'' and ''potential current beneficiaries'' (PCBs) with regard to electing small business trusts (ESBTs),the allowance of suspended losses to the spouse or former spouse of an S corporation shareholder, and relief for inadvertently terminated or invalid qualified subchapter S subsidiary (QSub) elections. The final regulations affect S corporations and their shareholders. The collection of information is required by § 1.1361–1(m)(2)(ii)(A) of these final regulations. This information is required to enable the IRS to verify whether the corporation is an eligible S corporation.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: Individuals or households, business or other for-profit & not-for-profit institutions.

Estimated Total Annual Reporting Burden: 26,000.

Estimated Average Annual Burden: 1 hour.

Estimated Number of Respondents: 26,000.

The reporting burden contained in § 301.6501(c)–1(f) is reflected in the burden for Form 709, U.S. Gift (and Generation-Skipping Transfer) Tax Return.

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: January 5, 2017.

Tuawana Pinkston,

IRS Reports Clearance Officer.

[FR Doc. 2017–01577 Filed 1–24–17; 8:45 am]

BILLING CODE 4830–01–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 Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning residence of trusts and estates—7701.

DATES: Written comments should be received on or before March 27, 2017 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Kerry Dennis at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *kerry.dennis@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Residence of Trusts and Estates—7701.

OMB Number: 1545–1600.

Regulation Project Number: TD 8813.

Abstract: This regulation provides the procedures and requirements for making the election to remain a domestic trust in accordance with section 1161 of the Taxpayer Relief Act of 1997. The information submitted by taxpayers will be used by the IRS to determine if a trust is a domestic trust or a foreign trust.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of the currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 222.

Estimated Time per Respondent: 31 minutes.

Estimated Total Annual Burden Hours: 114.

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: January 4, 2017.

Tuawana Pinkston,

IRS Reports Clearance Officer.

[FR Doc. 2017–01578 Filed 1–24–17; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

UNITED STATES TRADE REPRESENTATIVE

Notice of Availability of Bilateral Agreement Between the European Union and the United States of America on Prudential Measures Regarding Insurance and Reinsurance

AGENCY: Department of the Treasury, Departmental Offices; United States Trade Representative, Services and Investment.

ACTION: Notice of Availability; Final Legal Text of Bilateral Agreement between the European Union and the United States of America on Prudential Measures Regarding Insurance and Reinsurance (Covered Agreement).

SUMMARY: By this Notice, the Federal Insurance Office of the Department of the Treasury (FIO) and the United States Trade Representative (USTR) announce the availability of the final legal text of a Covered Agreement entered into between the United States and the European Union regarding certain prudential measures with respect to insurance and reinsurance.

ADDRESSES: The Covered Agreement text is available on Treasury's Web site at *https://www.treasury.gov/initiatives/fio/reports-and-notices/Pages/default.aspx.*

FOR FURTHER INFORMATION CONTACT:

Treasury: Philip J. Goodman, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, (202) 622–1170; Daniel P. McCarty, Policy Advisor, Federal Insurance Office, (202) 622–5892.

USTR: Sarah C. Ellerman, Director, Services & Investment, (202) 395–9556.

SUPPLEMENTARY INFORMATION: Pursuant to 31 U.S.C. 313–314, the Federal Insurance Office Act of 2010 (FIO Act) authorizes the Secretary of the Treasury (Treasury) and the USTR jointly to negotiate a covered agreement with one or more foreign governments, authorities, or regulatory entities. A covered agreement is a ''written bilateral or multilateral agreement regarding prudential measures with respect to the business of insurance or reinsurance . . . .''

The FIO Act provides that a covered agreement may enter into force only if Treasury and USTR jointly submit to the Financial Services and Ways and Means Committees of the House of Representatives and the Banking, Housing, and Urban Affairs and Finance Committees of the Senate a copy of the final legal text of the agreement on a day in which both Houses of Congress are in session and a period of ninety calendar days beginning on the date of submission has expired. On January 13, 2017, Treasury and USTR submitted a copy of the final legal text of the Covered Agreement to these four committees.

Text of the Covered Agreement is available in its entirety on Treasury's Web site at *https://www.treasury.gov/initiatives/fio/reports-and-notices/Pages/default.aspx.*

Michael T. McRaith,

Director, Federal Insurance Office, U.S. Department of the Treasury.

Sarah C. Ellerman,

Director, Services & Investment, Office of the United States Trade Representative.

[FR Doc. 2017–01638 Filed 1–24–17; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Structural Safety of Department of Veterans Affairs Facilities, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act (5 U.S.C. App. 2) that a meeting of the Advisory Committee on Structural Safety of Department of Veterans Affairs Facilities will be held on February 22–23, 2017, in Room 6W.306, 425 I Street NW., Washington, DC. On February 22, the session will begin at 9:00 a.m. and end at 5:00 p.m.; and on February 23, the session will start at 9:00 a.m. and adjourn at 1:00 p.m. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on matters of structural safety in the construction and remodeling of VA facilities and to recommend standards for use by VA in the construction and alteration of its facilities.

On February 22–23, the Committee will receive appropriate briefings and presentations on current seismic, natural hazards, and fire safety issues that are particularly relevant to facilities owned and leased by the Department. The Committee will also discuss appropriate structural and fire safety recommendations for inclusion in VA's construction standards.

No time will be allocated for receiving oral presentations from the public. However, the Committee will accept written comments. Comments should be sent to Donald Myers, Director, Facilities Standards Service, Office of Construction & Facilities Management (003C2B), Department of Veterans Affairs, 425 I Street NW., Washington, DC 20001, or via email at *Donald.Myers@va.gov.* Because the meeting will be held in a Government building, anyone attending must be prepared to show a valid photo ID. Please allow 15 minutes before the meeting begins for this process. Those wishing to attend or seeking additional information should contact Mr. Myers at (202) 632–5388.

Dated: January 19, 2017.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2017–01630 Filed 1–24–17; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

Vol. 82 Wednesday,
No. 15 January 25, 2017

Part II

The President

Federal Register
Vol. 82, No. 15
Wednesday, January 25, 2017

Presidential Documents

Title 3—

The President

Memorandum of January 23, 2017

Hiring Freeze

Memorandum for the Heads of Executive Departments and Agencies

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby order a freeze on the hiring of Federal civilian employees to be applied across the board in the executive branch. As part of this freeze, no vacant positions existing at noon on January 22, 2017, may be filled and no new positions may be created, except in limited circumstances. This order does not include or apply to military personnel. The head of any executive department or agency may exempt from the hiring freeze any positions that it deems necessary to meet national security or public safety responsibilities. In addition, the Director of the Office of Personnel Management (OPM) may grant exemptions from this freeze where those exemptions are otherwise necessary.

Within 90 days of the date of this memorandum, the Director of the Office of Management and Budget (OMB), in consultation with the Director of OPM, shall recommend a long-term plan to reduce the size of the Federal Government's workforce through attrition. This order shall expire upon implementation of the OMB plan.

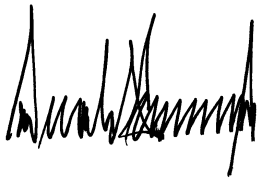
Contracting outside the Government to circumvent the intent of this memorandum shall not be permitted.

This hiring freeze applies to all executive departments and agencies regardless of the sources of their operational and programmatic funding, excepting military personnel.

In carrying out this memorandum, I ask that you seek efficient use of existing personnel and funds to improve public services and the delivery of these services. Accordingly, this memorandum does not prohibit making reallocations to meet the highest priority needs and to ensure that essential services are not interrupted and national security is not affected.

This memorandum does not limit the nomination and appointment of officials to positions requiring Presidential appointment or Senate confirmation, the appointment of officials to non-career positions in the Senior Executive Service or to Schedule C positions in the Excepted Service, or the appointment of any other officials who serve at the pleasure of the appointing authority. Moreover, it does not limit the hiring of personnel where such a limit would conflict with applicable law. This memorandum does not revoke any appointment to Federal service made prior to January 22, 2017.

This memorandum does not abrogate any collective bargaining agreement in effect on the date of this memorandum.



THE WHITE HOUSE,
Washington, January 23, 2017.

[FR Doc. 2017–01842
Filed 1–24–17; 11:15 am]
Billing code 3295–F7–P

Presidential Documents

Memorandum of January 23, 2017

The Mexico City Policy

Memorandum for the Secretary of State[,] the Secretary of Health and Human Services[, and] the Administrator of the United States Agency for International Development

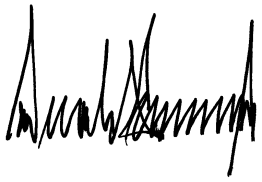
I hereby revoke the Presidential Memorandum of January 23, 2009, for the Secretary of State and the Administrator of the United States Agency for International Development (Mexico City Policy and Assistance for Voluntary Population Planning), and reinstate the Presidential Memorandum of January 22, 2001, for the Administrator of the United States Agency for International Development (Restoration of the Mexico City Policy).

I direct the Secretary of State, in coordination with the Secretary of Health and Human Services, to the extent allowable by law, to implement a plan to extend the requirements of the reinstated Memorandum to global health assistance furnished by all departments or agencies.

I further direct the Secretary of State to take all necessary actions, to the extent permitted by law, to ensure that U.S. taxpayer dollars do not fund organizations or programs that support or participate in the management of a program of coercive abortion or involuntary sterilization.

This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

The Secretary of State is authorized and directed to publish this memorandum in the *Federal Register.*



THE WHITE HOUSE,
Washington, January 23, 2017.

[FR Doc. 2017–01843
Filed 1–24–17; 11:15 am]
Billing code 4710–10–P

Presidential Documents

Memorandum of January 23, 2017

Withdrawal of the United States From the Trans-Pacific Partnership Negotiations and Agreement

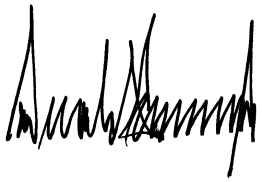
Memorandum for the United States Trade Representative

It is the policy of my Administration to represent the American people and their financial well-being in all negotiations, particularly the American worker, and to create fair and economically beneficial trade deals that serve their interests. Additionally, in order to ensure these outcomes, it is the intention of my Administration to deal directly with individual countries on a one-on-one (or bilateral) basis in negotiating future trade deals. Trade with other nations is, and always will be, of paramount importance to my Administration and to me, as President of the United States.

Based on these principles, and by the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby direct you to withdraw the United States as a signatory to the Trans-Pacific Partnership (TPP), to permanently withdraw the United States from TPP negotiations, and to begin pursuing, wherever possible, bilateral trade negotiations to promote American industry, protect American workers, and raise American wages.

You are directed to provide written notification to the Parties and to the Depository of the TPP, as appropriate, that the United States withdraws as a signatory of the TPP and withdraws from the TPP negotiating process.

You are authorized and directed to publish this memorandum in the *Federal Register.*



THE WHITE HOUSE,
Washington, January 23, 2017.

[FR Doc. 2017–01845
Filed 1–24–17; 11:15 am]
Billing code 3190–W8–P

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Federal Register

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