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Contents

Federal Register

Vol. 82, No. 179

Monday, September 18, 2017

Separate Parts In This Issue

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents electronic mailing list, go to https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new, enter your e-mail address, then follow the instructions to join, leave, or manage your subscription.

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR

Proclamations:
9637 43661
9638 43663

Administrative Orders:
Order of September 13, 2017 43665

7 CFR

Proposed Rules:
927 43504

14 CFR
39 43457

16 CFR
1028 43459
1112 43470
1229 43470

21 CFR
510 43482
520 43482
522 43482
524 43482
558 43482

33 CFR
100 43485
117 43486
165 43487

40 CFR
52 (2 documents) 43487, 43489
55 43491
423 43494

Proposed Rules:
52 43506

48 CFR

Proposed Rules:
1816 43511
1832 43511
1852 43511

50 CFR
635 43500
679 43503

Rules and Regulations

Federal Register
Vol. 82, No. 179
Monday, September 18, 2017

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–8177; Product Identifier 2015–NM–129–AD; Amendment 39–19041; AD 2017–19–11]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes. This AD was prompted by a determination that a certain task in the aircraft maintenance manual (AMM) will not accomplish the intent of a candidate certification maintenance requirement (CCMR) for detecting dormant failures of the pitch feel (PF) and rudder travel limiter actuator (RTLA) back-up modules. This AD requires doing an operational test of the flight control unit (FCU) back-up modules, and repair if necessary. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 23, 2017.

ADDRESSES:

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–8177; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Assata Dessaline, Aerospace Engineer, Avionics and Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7301; fax 516–794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes. The NPRM published in the **Federal Register** on July 15, 2016 (81 FR 45997) (''the NPRM''). The NPRM was prompted by a determination that a certain task in the AMM will not accomplish the intent of a CCMR. This CCMR task tests the PF and RTLA back-up modules in the FCU to detect dormant failures. The NPRM proposed to require doing an operational test of the FCU back-up modules, and repair if necessary. We are issuing this AD to detect and correct a dormant failure of both FCU back-up modules. This condition, in combination with other failures in the FCU, may result in the inability to maintain the minimum control requirements for the PF and RTLA, which could create hazardous flight control inputs during flight.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2015–06R1, dated April 22, 2015 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes. The MCAI states:

> It was discovered that the existing instruction in the Aircraft Maintenance Manual (AMM) Task 27–61–05–710–801 will not accomplish the intent of the * * * [Canadian Certification Maintenance Requirement (CCMR)] task number 27–61–05–201. This * * * [CCMR] task was required to test the Pitch Feel (PF) and Rudder Travel Limiter Actuator (RTLA) back-up modules in the Flight Control Unit (FCU) to detect dormant failures. If not detected, a dormant failure of both FCU back-up modules, in combination with other failures in the FCU, may result in the inability to maintain the Minimum Control Requirements for the PF and RTLA, which could create hazardous flight control inputs during flight.
>
> The original issue of this [Canadian] AD mandated the performance of an operational test of the FCU back-up modules using the proper AMM task instructions [and repair if necessary].
>
> Revision 1 of this [Canadian] AD is to correct the model number designation in the Applicability section.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–8177.

Comments

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

Requests To Clarify Task Type

Bombardier, Inc. (Bombardier), and NetJets Aviation Inc. (NetJets), requested that we clarify that task 27–61–05–201 is not a CMR task. Bombardier stated that the task was misidentified as a certification maintenance requirement (CMR) task during the investigation into the cause of the identified unsafe condition. Bombardier further explained that task 27–61–05–201 is a candidate CMR, or CCMR.

We agree that the task type should be clarified. We have confirmed that task 27–61–05–201 is a CCMR task. Therefore, we have revised references to the task throughout this AD accordingly.

Requests To Reference Revised Service Information

Bombardier, Kacalp Flight Operation, and NetJets, requested that we revise the NPRM to reference revised service information. The commenters explained that the temporary revisions (TRs) referenced in the NPRM have been incorporated into the AMM, as have several subsequent revisions. The commenters asserted that the referenced TRs and certain subsequent AMM revisions are not available to operators.

We partially agree with the commenters' requests. We have confirmed that the TRs and subsequent AMM revisions referenced in the NPRM are no longer available. Therefore, we

agree that this final rule needs to be revised. However, given the number of subsequent AMM revisions that have been issued for each of the AMMs since the NPRM was published, and the difficulties in obtaining the necessary material, we do not agree to reference subsequent AMM revisions in this final rule. Instead, we have revised paragraph (g) of this AD to specify doing the required actions in accordance with a method approved by the Manager, New York ACO Branch, FAA. We have also removed the content provided in paragraphs (h) and (i) of the proposed AD from this AD. We have redesignated subsequent paragraphs accordingly.

Request To Revise the Compliance Time for the FCU Operational Test

NetJets requested that we revise the proposed compliance time for FCUs with less than 3,000 total flight hours in paragraph (g)(3) of the proposed AD to the later of the following:

- Prior to 3,000 total flight hours on the FCU; or
- Within 15 months or 700 flight hours after the effective date of the AD, whichever occurs first.

NetJets stated that, for an FCU with 2,999 total flight hours on the effective date of the AD, the proposed AD would require compliance prior to further flight. NetJets pointed out that no justification was given for the more restrictive compliance time. Further, NetJets explained that paragraph (g)(1) of the proposed AD has a grace period of 15 months or 700 hours flight hours, whichever occurs first for an FCU that has accumulated 3,000 total flight hours or more.

We partially agree with the commenter's request. We agree that a grace period is needed for FCUs having accumulated less than 3,000 total flight hours as of the effective date of this AD, on which an operational test has not been completed. We do not agree that the commenter's proposed grace period is adequate to address the unsafe condition. However, we have revised the compliance time in paragraph (g)(3) of this AD to provide a grace period of within 30 days after the effective date of this AD.

Request To Correct Typographical Errors in Paragraph (h)(5) of the Proposed AD

Bombardier requested that we correct a typographical error in paragraph (h)(5) of the proposed AD.

We agree that there is a typographical error in paragraph (h)(5) of the proposed AD. However, as explained previously, we have removed the content of paragraph (h) of the proposed AD from this AD. Therefore, no change to this AD is necessary in this regard.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD with the changes described previously and minor editorial changes. We have determined that these minor changes:

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

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

Costs of Compliance

We estimate that this AD affects 76 airplanes of U.S. registry. We also estimate that it will take about 3 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $19,380, or $255 per product.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this AD.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

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

Regulatory Findings

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017–19–11 Bombardier, Inc.: Amendment 39–19041; Docket No. FAA–2016–8177; Product Identifier 2015–NM–129–AD.

(a) Effective Date

This AD is effective October 23, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes, certificated in any category, serial numbers 9002 and subsequent.

(d) Subject

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

(e) Reason

This AD was prompted by a determination that a certain task in the aircraft maintenance manual (AMM) will not accomplish the intent of a candidate certification maintenance requirement (CCMR). This CCMR task tests the pitch feel (PF) and rudder travel limiter actuator (RTLA) back-up modules in the flight control unit (FCU) to detect dormant failures. We are issuing this AD to detect and correct a dormant failure of both FCU back-up modules. This condition, in combination with other failures in the FCU, may result in the inability to maintain the minimum control requirements for the PF and RTLA, which could create hazardous flight control inputs during flight.

(f) Compliance

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

(g) FCU Operational Test

(1) For airplanes with an FCU that has accumulated 3,000 total flight hours or more as of the effective date of this AD: Within 15 months or 700 flight hours, whichever occurs first, after the effective date of this AD, do an operational test of the FCU back-up modules, in accordance with a method approved by the Manager, New York ACO Branch, FAA.

(2) For airplanes with an FCU that has accumulated less than 3,000 total flight hours as of the effective date of this AD, and on which an operational test has been accomplished as specified in AMM task 27–61–05–710–801: Within 15 months or 700 flight hours, whichever occurs first, after the effective date of this AD, do an operational test of the FCU back-up modules, in accordance with a method approved by the Manager, New York ACO Branch, FAA.

(3) For airplanes with an FCU that has accumulated less than 3,000 total flight hours as of the effective date of this AD, and on which an operational test has not been accomplished as specified in AMM task 27–61–05–710–801: Before the FCU accumulates 3,000 total flight hours or within 30 days after the effective date of this AD, whichever occurs later, perform an operational test of the FCU back-up modules, in accordance with a method approved by the Manager, New York ACO Branch, FAA.

(h) Corrective Action

If any FCU fails any operational test required by this AD: Before further flight, repair using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO).

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or TCCA; or Bombardier, Inc.'s TCCA DAO. If approved by the DAO, the approval must include the DAO-authorized signature.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2015–06R1, dated April 22, 2015, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–8177.

(2) For more information about this AD, contact Assata Dessaline, Aerospace Engineer, Avionics and Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7301; fax 516–794–5531.

(k) Material Incorporated by Reference

None.

Issued in Renton, Washington, on September 7, 2017.

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–19658 Filed 9–15–17; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1028

Protection of Human Subjects

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: On January 19, 2017, the Federal departments and agencies that are subject to the Federal Policy for the Protection of Human Subjects (referred to as the Common Rule) published a final rule amending the Common Rule. The Consumer Product Safety Commission (CPSC or Commission) adopts the Common Rule.

DATES: The rule is effective on January 19, 2018. The compliance date for this rule, except for § 1028.114(b) (cooperative research), is January 19, 2018. The compliance date for § 1028.114(b) (cooperative research) is January 20, 2020.

FOR FURTHER INFORMATION CONTACT: Alice Thaler, Associate Executive Director for Health Sciences, Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850: 301–987–2240, or by email to: *athaler@cpsc.gov.*

SUPPLEMENTARY INFORMATION: On June 18, 1991, the U.S. Department of Health and Human Services (HHS) issued a rule setting forth the Common Rule requirements for the protection of human subjects. (56 FR 28003). The HHS regulations are codified at 45 CFR part 46. At that time, 15 other agencies, including CPSC, joined HHS in adopting a uniform set of rules for the protection of human subjects, identical to subpart A of 45 CFR part 46. The Common Rule is codified in CPSC's regulations at 16 CFR part 1028. The basic provisions of the Common Rule include, among other things, requirements related to the review of human subjects research by an institutional review board, obtaining and documenting informed consent of human subjects, and submitting written assurance of institutional compliance with the Common Rule.

On September 8, 2015 (80 FR 53933), HHS, on behalf of many of the same agencies that were signatories to the original Common Rule, proposed revisions to the Common Rule to modernize and strengthen the rule. Although CPSC was not a signatory to the Common Rule NPR, CPSC proposed to amend the Commission's regulations at 16 CFR part 1028, to cross-reference the HHS regulations in 45 CFR part 46, subpart A. 80 FR 57548 (Sept. 24, 2015). In addition, CPSC directed that any comments on the proposed Common Rule be sent to the HHS docket for the proceeding at HHS–OPHS–2015–0008.

On January 19, 2017, HHS issued a final rule on the Common Rule, which, among other things, establishes new requirements regarding the information that must be given to prospective research subjects as part of the informed consent process. 82 FR 7149. HHS also reviewed and addressed more than 2,100 comments. Although CPSC instructed that any comment on the Common Rule be submitted in the HHS docket, 22 comments were submitted, instead, to the CPSC docket. CPSC reviewed the comments and determined that all of the substantive issues were addressed in the Common Rule final rule.

Because CPSC's current regulations on the protection of human subjects, codified at 16 CFR part 1028, follow the

HHS regulations in 45 CFR part 46, subpart A, CPSC proposed to adopt the amended regulatory text provided in the Common Rule final rule by providing a cross-reference to the HHS regulations in 45 CFR part 46, subpart A, rather than restating the text of HHS's regulation in CPSC's rule. However, at the direction of the Office of the Federal Register, for the final rule, CPSC is codifying the text of the revised Common Rule in CPSC's regulations at 16 CFR part 1028. CPSC's final rule is substantively identical to the HHS regulations in 45 CFR part 46, subpart A. Accordingly, CPSC now adopts the final Common Rule. The effective date of the Common Rule is January 19, 2018, with a compliance date of January 19, 2018, except for the section on cooperative research (§ 1028.114), which has a compliance date of January 20, 2020.

List of Subjects in 16 CFR Part 1028

Human research subjects, Reporting and recordkeeping requirements, Research.

For the reasons stated in the preamble, the Consumer Product Safety Commission amends Title 16 of the Code of Federal Regulations by revising part 1028 to read as follows:

PART 1028—PROTECTION OF HUMAN SUBJECTS

Sec.

Authority: 5 U.S.C. 301; 42 U.S.C. 300v–1(b).

§ 1028.101 To what does this policy apply?

(a) Except as detailed in § 1028.104, this policy applies to all research involving human subjects conducted, supported, or otherwise subject to regulation by any Federal department or agency that takes appropriate administrative action to make the policy applicable to such research. This includes research conducted by Federal civilian employees or military personnel, except that each department or agency head may adopt such procedural modifications as may be appropriate from an administrative standpoint. It also includes research conducted, supported, or otherwise subject to regulation by the Federal Government outside the United States. Institutions that are engaged in research described in this paragraph and institutional review boards (IRBs) reviewing research that is subject to this policy must comply with this policy.

(b) [Reserved]

(c) Department or agency heads retain final judgment as to whether a particular activity is covered by this policy and this judgment shall be exercised consistent with the ethical principles of the Belmont Report.[1]

(d) Department or agency heads may require that specific research activities or classes of research activities conducted, supported, or otherwise subject to regulation by the Federal department or agency but not otherwise covered by this policy comply with some or all of the requirements of this policy.

(e) Compliance with this policy requires compliance with pertinent federal laws or regulations that provide additional protections for human subjects.

(f) This policy does not affect any state or local laws or regulations (including tribal law passed by the official governing body of an American Indian or Alaska Native tribe) that may otherwise be applicable and that provide additional protections for human subjects.

(g) This policy does not affect any foreign laws or regulations that may otherwise be applicable and that provide additional protections to human subjects of research.

(h) When research covered by this policy takes place in foreign countries, procedures normally followed in the foreign countries to protect human subjects may differ from those set forth in this policy. In these circumstances, if a department or agency head determines that the procedures prescribed by the institution afford protections that are at least equivalent to those provided in this policy, the department or agency head may approve the substitution of the foreign procedures in lieu of the procedural requirements provided in this policy. Except when otherwise required by statute, Executive Order, or the department or agency head, notices of these actions as they occur will be published in the **Federal Register** or will be otherwise published as provided in department or agency procedures.

(i) Unless otherwise required by law, department or agency heads may waive the applicability of some or all of the provisions of this policy to specific research activities or classes of research activities otherwise covered by this policy, provided the alternative procedures to be followed are consistent with the principles of the Belmont Report.[2] Except when otherwise required by statute or Executive Order, the department or agency head shall forward advance notices of these actions to the Office for Human Research Protections, Department of Health and Human Services (HHS), or any successor office, or to the equivalent office within the appropriate Federal department or agency, and shall also publish them in the **Federal Register** or in such other manner as provided in department or agency procedures. The waiver notice must include a statement that identifies the conditions under which the waiver will be applied and a justification as to why the waiver is appropriate for the research, including how the decision is consistent with the principles of the Belmont Report.

(j) Federal guidance on the requirements of this policy shall be issued only after consultation, for the purpose of harmonization (to the extent appropriate), with other Federal departments and agencies that have adopted this policy, unless such consultation is not feasible.

(k) [Reserved]

(l) Compliance dates and transition provisions:

(1) For purposes of this section, the *pre-2018 Requirements* means this

[1] The National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research—Belmont Report. Washington, DC: U.S. Department of Health and Human Services. 1979.

[2] *Id.*

subpart as published in the 2016 edition of the Code of Federal Regulations.

(2) For purposes of this section, the *2018 Requirements* means the Federal Policy for the Protection of Human Subjects requirements contained in this subpart. The compliance date for § 1028.114(b) (cooperative research) of the 2018 Requirements is January 20, 2020.

(3) Research initially approved by an IRB, for which such review was waived pursuant to § 1028.101(i), or for which a determination was made that the research was exempt before January 19, 2018, shall comply with the pre-2018 Requirements, except that an institution engaged in such research on or after January 19, 2018, may instead comply with the 2018 Requirements if the institution determines that such ongoing research will comply with the 2018 Requirements and an IRB documents such determination.

(4) Research initially approved by an IRB, for which such review was waived pursuant to § 1028.101(i), or for which a determination was made that the research was exempt on or after January 19, 2018, shall comply with the 2018 Requirements.

(m) *Severability:* Any provision of this part held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to continue to give maximum effect to the provision permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event the provision shall be severable from this part and shall not affect the remainder thereof or the application of the provision to other persons not similarly situated or to other dissimilar circumstances.

§ 1028.102 Definitions for purposes of this policy.

(a) *Certification* means the official notification by the institution to the supporting Federal department or agency component, in accordance with the requirements of this policy, that a research project or activity involving human subjects has been reviewed and approved by an IRB in accordance with an approved assurance.

(b) *Clinical trial* means a research study in which one or more human subjects are prospectively assigned to one or more interventions (which may include placebo or other control) to evaluate the effects of the interventions on biomedical or behavioral health-related outcomes.

(c) *Department or agency head* means the head of any Federal department or agency, for example, the Secretary of HHS, and any other officer or employee of any Federal department or agency to whom the authority provided by these regulations to the department or agency head has been delegated.

(d) *Federal department or agency* refers to a federal department or agency (the department or agency itself rather than its bureaus, offices or divisions) that takes appropriate administrative action to make this policy applicable to the research involving human subjects it conducts, supports, or otherwise regulates (*e.g.,* the U.S. Department of Health and Human Services, the U.S. Department of Defense, or the Central Intelligence Agency).

(e)(1) *Human subject* means a living individual about whom an investigator (whether professional or student) conducting research:

(i) Obtains information or biospecimens through intervention or interaction with the individual, and uses, studies, or analyzes the information or biospecimens; or

(ii) Obtains, uses, studies, analyzes, or generates identifiable private information or identifiable biospecimens.

(2) *Intervention* includes both physical procedures by which information or biospecimens are gathered (*e.g.,* venipuncture) and manipulations of the subject or the subject's environment that are performed for research purposes.

(3) *Interaction* includes communication or interpersonal contact between investigator and subject.

(4) *Private information* includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information that has been provided for specific purposes by an individual and that the individual can reasonably expect will not be made public (*e.g.,* a medical record).

(5) *Identifiable private information* is private information for which the identity of the subject is or may readily be ascertained by the investigator or associated with the information.

(6) *An identifiable biospecimen* is a biospecimen for which the identity of the subject is or may readily be ascertained by the investigator or associated with the biospecimen.

(7) Federal departments or agencies implementing this policy shall:

(i) Upon consultation with appropriate experts (including experts in data matching and re-identification), reexamine the meaning of ''identifiable private information,'' as defined in paragraph (e)(5) of this section, and ''identifiable biospecimen,'' as defined in paragraph (e)(6) of this section. This reexamination shall take place within 1 year and regularly thereafter (at least every 4 years). This process will be conducted by collaboration among the Federal departments and agencies implementing this policy. If appropriate and permitted by law, such Federal departments and agencies may alter the interpretation of these terms, including through the use of guidance.

(ii) Upon consultation with appropriate experts, assess whether there are analytic technologies or techniques that should be considered by investigators to generate ''identifiable private information,'' as defined in paragraph (e)(5) of this section, or an ''identifiable biospecimen,'' as defined in paragraph (e)(6) of this section. This assessment shall take place within 1 year and regularly thereafter (at least every 4 years). This process will be conducted by collaboration among the Federal departments and agencies implementing this policy. Any such technologies or techniques will be included on a list of technologies or techniques that produce identifiable private information or identifiable biospecimens. This list will be published in the **Federal Register** after notice and an opportunity for public comment. The Secretary, HHS, shall maintain the list on a publicly accessible Web site.

(f) *Institution* means any public or private entity, or department or agency (including federal, state, and other agencies).

(g) *IRB* means an institutional review board established in accord with and for the purposes expressed in this policy.

(h) *IRB approval* means the determination of the IRB that the research has been reviewed and may be conducted at an institution within the constraints set forth by the IRB and by other institutional and federal requirements.

(i) *Legally authorized representative* means an individual or judicial or other body authorized under applicable law to consent on behalf of a prospective subject to the subject's participation in the procedure(s) involved in the research. If there is no applicable law addressing this issue, *legally authorized representative* means an individual recognized by institutional policy as acceptable for providing consent in the nonresearch context on behalf of the prospective subject to the subject's participation in the procedure(s) involved in the research.

(j) *Minimal risk* means that the probability and magnitude of harm or discomfort anticipated in the research are not greater in and of themselves than those ordinarily encountered in daily

life or during the performance of routine physical or psychological examinations or tests.

(k) *Public health authority* means an agency or authority of the United States, a state, a territory, a political subdivision of a state or territory, an Indian tribe, or a foreign government, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is responsible for public health matters as part of its official mandate.

(l) *Research* means a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge. Activities that meet this definition constitute research for purposes of this policy, whether or not they are conducted or supported under a program that is considered research for other purposes. For example, some demonstration and service programs may include research activities. For purposes of this part, the following activities are deemed not to be research:

(1) Scholarly and journalistic activities (*e.g.,* oral history, journalism, biography, literary criticism, legal research, and historical scholarship), including the collection and use of information, that focus directly on the specific individuals about whom the information is collected.

(2) Public health surveillance activities, including the collection and testing of information or biospecimens, conducted, supported, requested, ordered, required, or authorized by a public health authority. Such activities are limited to those necessary to allow a public health authority to identify, monitor, assess, or investigate potential public health signals, onsets of disease outbreaks, or conditions of public health importance (including trends, signals, risk factors, patterns in diseases, or increases in injuries from using consumer products). Such activities include those associated with providing timely situational awareness and priority setting during the course of an event or crisis that threatens public health (including natural or man-made disasters).

(3) Collection and analysis of information, biospecimens, or records by or for a criminal justice agency for activities authorized by law or court order solely for criminal justice or criminal investigative purposes.

(4) Authorized operational activities (as determined by each agency) in support of intelligence, homeland security, defense, or other national security missions.

(m) *Written, or in writing,* for purposes of this part, refers to writing on a tangible medium (*e.g.,* paper) or in an electronic format.

§ 1028.103 Assuring compliance with this policy—research conducted or supported by any Federal department or agency.

(a) Each institution engaged in research that is covered by this policy, with the exception of research eligible for exemption under § 1028.104, and that is conducted or supported by a Federal department or agency, shall provide written assurance satisfactory to the department or agency head that it will comply with the requirements of this policy. In lieu of requiring submission of an assurance, individual department or agency heads shall accept the existence of a current assurance, appropriate for the research in question, on file with the Office for Human Research Protections, HHS, or any successor office, and approved for Federal-wide use by that office. When the existence of an HHS-approved assurance is accepted in lieu of requiring submission of an assurance, reports (except certification) required by this policy to be made to department and agency heads shall also be made to the Office for Human Research Protections, HHS, or any successor office. Federal departments and agencies will conduct or support research covered by this policy only if the institution has provided an assurance that it will comply with the requirements of this policy, as provided in this section, and only if the institution has certified to the department or agency head that the research has been reviewed and approved by an IRB (if such certification is required by paragraph (d) of this section).

(b) The assurance shall be executed by an individual authorized to act for the institution and to assume on behalf of the institution the obligations imposed by this policy and shall be filed in such form and manner as the department or agency head prescribes.

(c) The department or agency head may limit the period during which any assurance shall remain effective or otherwise condition or restrict the assurance.

(d) Certification is required when the research is supported by a Federal department or agency and not otherwise waived under § 1028.101(i) or exempted under § 1028.104. For such research, institutions shall certify that each proposed research study covered by the assurance and this section has been reviewed and approved by the IRB. Such certification must be submitted as prescribed by the Federal department or agency component supporting the research. Under no condition shall research covered by this section be initiated prior to receipt of the certification that the research has been reviewed and approved by the IRB.

(e) For nonexempt research involving human subjects covered by this policy (or exempt research for which limited IRB review takes place pursuant to § 1028.104(d)(2)(iii), (d)(3)(i)(C), or (d)(7) or (8)) that takes place at an institution in which IRB oversight is conducted by an IRB that is not operated by the institution, the institution and the organization operating the IRB shall document the institution's reliance on the IRB for oversight of the research and the responsibilities that each entity will undertake to ensure compliance with the requirements of this policy (*e.g.,* in a written agreement between the institution and the IRB, by implementation of an institution-wide policy directive providing the allocation of responsibilities between the institution and an IRB that is not affiliated with the institution, or as set forth in a research protocol).

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§ 1028.104 Exempt research.

(a) Unless otherwise required by law or by department or agency heads, research activities in which the only involvement of human subjects will be in one or more of the categories in paragraph (d) of this section are exempt from the requirements of this policy, except that such activities must comply with the requirements of this section and as specified in each category.

(b) Use of the exemption categories for research subject to the requirements of 45 CFR part 46, subparts B, C, and D: Application of the exemption categories to research subject to the requirements of 45 CFR part 46, subparts B, C, and D, is as follows:

(1) *Subpart B.* Each of the exemptions at this section may be applied to research subject to subpart B if the conditions of the exemption are met.

(2) *Subpart C.* The exemptions at this section do not apply to research subject to subpart C, except for research aimed at involving a broader subject population that only incidentally includes prisoners.

(3) *Subpart D.* The exemptions at paragraphs (d)(1) and (d)(4) through (8) of this section may be applied to

research subject to subpart D if the conditions of the exemption are met. Paragraphs (d)(2)(i) and (ii) of this section only may apply to research subject to subpart D involving educational tests or the observation of public behavior when the investigator(s) do not participate in the activities being observed. Paragraph (d)(2)(iii) of this section may not be applied to research subject to subpart D.

(c) [Reserved.]

(d) Except as described in paragraph (a) of this section, the following categories of human subjects research are exempt from this policy:

(1) Research, conducted in established or commonly accepted educational settings, that specifically involves normal educational practices that are not likely to adversely impact students' opportunity to learn required educational content or the assessment of educators who provide instruction. This includes most research on regular and special education instructional strategies, and research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research that only includes interactions involving educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures, or observation of public behavior (including visual or auditory recording) if at least one of the following criteria is met:

(i) The information obtained is recorded by the investigator in such a manner that the identity of the human subjects cannot readily be ascertained, directly or through identifiers linked to the subjects;

(ii) Any disclosure of the human subjects' responses outside the research would not reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, educational advancement, or reputation; or

(iii) The information obtained is recorded by the investigator in such a manner that the identity of the human subjects can readily be ascertained, directly or through identifiers linked to the subjects, and an IRB conducts a limited IRB review to make the determination required by § 1028.111(a)(7).

(3)(i) Research involving benign behavioral interventions in conjunction with the collection of information from an adult subject through verbal or written responses (including data entry) or audiovisual recording if the subject prospectively agrees to the intervention and information collection and at least one of the following criteria is met:

(A) The information obtained is recorded by the investigator in such a manner that the identity of the human subjects cannot readily be ascertained, directly or through identifiers linked to the subjects;

(B) Any disclosure of the human subjects' responses outside the research would not reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, educational advancement, or reputation; or

(C) The information obtained is recorded by the investigator in such a manner that the identity of the human subjects can readily be ascertained, directly or through identifiers linked to the subjects, and an IRB conducts a limited IRB review to make the determination required by § 1028.111(a)(7).

(ii) For the purpose of this provision, benign behavioral interventions are brief in duration, harmless, painless, not physically invasive, not likely to have a significant adverse lasting impact on the subjects, and the investigator has no reason to think the subjects will find the interventions offensive or embarrassing. Provided all such criteria are met, examples of such benign behavioral interventions would include having the subjects play an online game, having them solve puzzles under various noise conditions, or having them decide how to allocate a nominal amount of received cash between themselves and someone else.

(iii) If the research involves deceiving the subjects regarding the nature or purposes of the research, this exemption is not applicable unless the subject authorizes the deception through a prospective agreement to participate in research in circumstances in which the subject is informed that he or she will be unaware of or misled regarding the nature or purposes of the research.

(4) Secondary research for which consent is not required: Secondary research uses of identifiable private information or identifiable biospecimens, if at least one of the following criteria is met:

(i) The identifiable private information or identifiable biospecimens are publicly available;

(ii) Information, which may include information about biospecimens, is recorded by the investigator in such a manner that the identity of the human subjects cannot readily be ascertained directly or through identifiers linked to the subjects, the investigator does not contact the subjects, and the investigator will not re-identify subjects;

(iii) The research involves only information collection and analysis involving the investigator's use of identifiable health information when that use is regulated under 45 CFR parts 160 and 164, subparts A and E, for the purposes of ''health care operations'' or ''research'' as those terms are defined at 45 CFR 164.501 or for ''public health activities and purposes'' as described under 45 CFR 164.512(b); or

(iv) The research is conducted by, or on behalf of, a Federal department or agency using government-generated or government-collected information obtained for nonresearch activities, if the research generates identifiable private information that is or will be maintained on information technology that is subject to and in compliance with section 208(b) of the E-Government Act of 2002, 44 U.S.C. 3501 note, if all of the identifiable private information collected, used, or generated as part of the activity will be maintained in systems of records subject to the Privacy Act of 1974, 5 U.S.C. 552a, and, if applicable, the information used in the research was collected subject to the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

(5) Research and demonstration projects that are conducted or supported by a Federal department or agency, or otherwise subject to the approval of department or agency heads (or the approval of the heads of bureaus or other subordinate agencies that have been delegated authority to conduct the research and demonstration projects), and that are designed to study, evaluate, improve, or otherwise examine public benefit or service programs, including procedures for obtaining benefits or services under those programs, possible changes in or alternatives to those programs or procedures, or possible changes in methods or levels of payment for benefits or services under those programs. Such projects include, but are not limited to, internal studies by Federal employees, and studies under contracts or consulting arrangements, cooperative agreements, or grants. Exempt projects also include waivers of otherwise mandatory requirements using authorities such as sections 1115 and 1115A of the Social Security Act, as amended.

(i) Each Federal department or agency conducting or supporting the research and demonstration projects must establish, on a publicly accessible Federal Web site or in such other manner as the department or agency head may determine, a list of the research and demonstration projects that the Federal department or agency conducts or supports under this

provision. The research or demonstration project must be published on this list prior to commencing the research involving human subjects.

(ii) [Reserved]

(6) Taste and food quality evaluation and consumer acceptance studies:

(i) If wholesome foods without additives are consumed, or

(ii) If a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S. Department of Agriculture.

(7) Storage or maintenance for secondary research for which broad consent is required: Storage or maintenance of identifiable private information or identifiable biospecimens for potential secondary research use if an IRB conducts a limited IRB review and makes the determinations required by § 1028.111(a)(8).

(8) Secondary research for which broad consent is required: Research involving the use of identifiable private information or identifiable biospecimens for secondary research use, if the following criteria are met:

(i) Broad consent for the storage, maintenance, and secondary research use of the identifiable private information or identifiable biospecimens was obtained in accordance with § 1028.116(a)(1) through (4), (a)(6), and (d);

(ii) Documentation of informed consent or waiver of documentation of consent was obtained in accordance with § 1028.117;

(iii) An IRB conducts a limited IRB review and makes the determination required by § 1028.111(a)(7) and makes the determination that the research to be conducted is within the scope of the broad consent referenced in paragraph (d)(8)(i) of this section; and

(iv) The investigator does not include returning individual research results to subjects as part of the study plan. This provision does not prevent an investigator from abiding by any legal requirements to return individual research results.

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§ 1028.105 [Reserved.]

§ 1028.106 [Reserved]

§ 1028.107 IRB membership.

(a) Each IRB shall have at least five members, with varying backgrounds to promote complete and adequate review of research activities commonly conducted by the institution. The IRB shall be sufficiently qualified through the experience and expertise of its members (professional competence), and the diversity of its members, including race, gender, and cultural backgrounds and sensitivity to such issues as community attitudes, to promote respect for its advice and counsel in safeguarding the rights and welfare of human subjects. The IRB shall be able to ascertain the acceptability of proposed research in terms of institutional commitments (including policies and resources) and regulations, applicable law, and standards of professional conduct and practice. The IRB shall therefore include persons knowledgeable in these areas. If an IRB regularly reviews research that involves a category of subjects that is vulnerable to coercion or undue influence, such as children, prisoners, individuals with impaired decision-making capacity, or economically or educationally disadvantaged persons, consideration shall be given to the inclusion of one or more individuals who are knowledgeable about and experienced in working with these categories of subjects.

(b) Each IRB shall include at least one member whose primary concerns are in scientific areas and at least one member whose primary concerns are in nonscientific areas.

(c) Each IRB shall include at least one member who is not otherwise affiliated with the institution and who is not part of the immediate family of a person who is affiliated with the institution.

(d) No IRB may have a member participate in the IRB's initial or continuing review of any project in which the member has a conflicting interest, except to provide information requested by the IRB.

(e) An IRB may, in its discretion, invite individuals with competence in special areas to assist in the review of issues that require expertise beyond or in addition to that available on the IRB. These individuals may not vote with the IRB.

§ 1028.108 IRB functions and operations.

(a) In order to fulfill the requirements of this policy each IRB shall:

(1) Have access to meeting space and sufficient staff to support the IRB's review and recordkeeping duties;

(2) Prepare and maintain a current list of the IRB members identified by name; earned degrees; representative capacity; indications of experience such as board certifications or licenses sufficient to describe each member's chief anticipated contributions to IRB deliberations; and any employment or other relationship between each member and the institution, for example, full-time employee, part-time employee, member of governing panel or board, stockholder, paid or unpaid consultant;

(3) Establish and follow written procedures for:

(i) Conducting its initial and continuing review of research and for reporting its findings and actions to the investigator and the institution;

(ii) Determining which projects require review more often than annually and which projects need verification from sources other than the investigators that no material changes have occurred since previous IRB review; and

(iii) Ensuring prompt reporting to the IRB of proposed changes in a research activity, and for ensuring that investigators will conduct the research activity in accordance with the terms of the IRB approval until any proposed changes have been reviewed and approved by the IRB, except when necessary to eliminate apparent immediate hazards to the subject.

(4) Establish and follow written procedures for ensuring prompt reporting to the IRB; appropriate institutional officials; the department or agency head; and the Office for Human Research Protections, HHS, or any successor office, or the equivalent office within the appropriate Federal department or agency of

(i) Any unanticipated problems involving risks to subjects or others or any serious or continuing noncompliance with this policy or the requirements or determinations of the IRB; and (ii) Any suspension or termination of IRB approval.

(b) Except when an expedited review procedure is used (as described in § 1028.110), an IRB must review proposed research at convened meetings at which a majority of the members of the IRB are present, including at least one member whose primary concerns are in nonscientific areas. In order for the research to be approved, it shall receive the approval of a majority of those members present at the meeting.

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§ 1028.109 IRB review of research.

(a) An IRB shall review and have authority to approve, require modifications in (to secure approval), or disapprove all research activities covered by this policy, including exempt research activities under § 1028.104 for which limited IRB review is a condition of exemption (under § 1028.104(d)(2)(iii), (d)(3)(i)(C), or (d)(7) or (8)).

(b) An IRB shall require that information given to subjects (or legally authorized representatives, when appropriate) as part of informed consent is in accordance with § 1028.116. The IRB may require that information, in addition to that specifically mentioned in § 1028.116, be given to the subjects when in the IRB's judgment the information would meaningfully add to the protection of the rights and welfare of subjects.

(c) An IRB shall require documentation of informed consent or may waive documentation in accordance with § 1028.117.

(d) An IRB shall notify investigators and the institution in writing of its decision to approve or disapprove the proposed research activity, or of modifications required to secure IRB approval of the research activity. If the IRB decides to disapprove a research activity, it shall include in its written notification a statement of the reasons for its decision and give the investigator an opportunity to respond in person or in writing.

(e) An IRB shall conduct continuing review of research requiring review by the convened IRB at intervals appropriate to the degree of risk, not less than once per year, except as described in paragraph (f) of this section.

(f)(1) Unless an IRB determines otherwise, continuing review of research is not required in the following circumstances:

(i) Research eligible for expedited review in accordance with § 1028.110;

(ii) Research reviewed by the IRB in accordance with the limited IRB review described in § 1028.104(d)(2)(iii), (d)(3)(i)(C), or (d)(7) or (8);

(iii) Research that has progressed to the point that it involves only one or both of the following, which are part of the IRB-approved study:

(A) Data analysis, including analysis of identifiable private information or identifiable biospecimens, or

(B) Accessing follow-up clinical data from procedures that subjects would undergo as part of clinical care.

(2) [Reserved.]

(g) An IRB shall have authority to observe or have a third party observe the consent process and the research.

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§ 1028.110 Expedited review procedures for certain kinds of research involving no more than minimal risk, and for minor changes in approved research.

(a) The Secretary of HHS has established, and published as a Notice in the **Federal Register**, a list of categories of research that may be reviewed by the IRB through an expedited review procedure. The Secretary will evaluate the list at least every 8 years and amend it, as appropriate, after consultation with other Federal departments and agencies and after publication in the **Federal Register** for public comment. A copy of the list is available from the Office for Human Research Protections, HHS, or any successor office.

(b)(1) An IRB may use the expedited review procedure to review the following:

(i) Some or all of the research appearing on the list described in paragraph (a) of this section, unless the reviewer determines that the study involves more than minimal risk;

(ii) Minor changes in previously approved research during the period for which approval is authorized; or

(iii) Research for which limited IRB review is a condition of exemption under § 1028.104(d)(2)(iii), (d)(3)(i)(C), and (d)(7) and (8).

(2) Under an expedited review procedure, the review may be carried out by the IRB chairperson or by one or more experienced reviewers designated by the chairperson from among members of the IRB. In reviewing the research, the reviewers may exercise all of the authorities of the IRB except that the reviewers may not disapprove the research. A research activity may be disapproved only after review in accordance with the nonexpedited procedure set forth in § 1028.108(b).

(c) Each IRB that uses an expedited review procedure shall adopt a method for keeping all members advised of research proposals that have been approved under the procedure.

(d) The department or agency head may restrict, suspend, terminate, or choose not to authorize an institution's or IRB's use of the expedited review procedure.

§ 1028.111 Criteria for IRB approval of research.

(a) In order to approve research covered by this policy the IRB shall determine that all of the following requirements are satisfied:

(1) Risks to subjects are minimized:

(i) By using procedures that are consistent with sound research design and that do not unnecessarily expose subjects to risk, and

(ii) Whenever appropriate, by using procedures already being performed on the subjects for diagnostic or treatment purposes.

(2) Risks to subjects are reasonable in relation to anticipated benefits, if any, to subjects, and the importance of the knowledge that may reasonably be expected to result. In evaluating risks and benefits, the IRB should consider only those risks and benefits that may result from the research (as distinguished from risks and benefits of therapies subjects would receive even if not participating in the research). The IRB should not consider possible long-range effects of applying knowledge gained in the research (*e.g.,* the possible effects of the research on public policy) as among those research risks that fall within the purview of its responsibility.

(3) Selection of subjects is equitable. In making this assessment the IRB should take into account the purposes of the research and the setting in which the research will be conducted. The IRB should be particularly cognizant of the special problems of research that involves a category of subjects who are vulnerable to coercion or undue influence, such as children, prisoners, individuals with impaired decision-making capacity, or economically or educationally disadvantaged persons.

(4) Informed consent will be sought from each prospective subject or the subject's legally authorized representative, in accordance with, and to the extent required by, § 1028.116.

(5) Informed consent will be appropriately documented or appropriately waived in accordance with § 1028.117.

(6) When appropriate, the research plan makes adequate provision for monitoring the data collected to ensure the safety of subjects.

(7) When appropriate, there are adequate provisions to protect the privacy of subjects and to maintain the confidentiality of data.

(i) The Secretary of HHS will, after consultation with the Office of Management and Budget's privacy office and other Federal departments and agencies that have adopted this policy, issue guidance to assist IRBs in assessing what provisions are adequate to protect the privacy of subjects and to maintain the confidentiality of data.

(ii) [Reserved.]

(8) For purposes of conducting the limited IRB review required by § 1028.104(d)(7)), the IRB need not make the determinations at paragraphs (a)(1) through (7) of this section, and shall make the following determinations:

(i) Broad consent for storage, maintenance, and secondary research use of identifiable private information or identifiable biospecimens is obtained in accordance with the requirements of § 1028.116(a)(1)–(4), (a)(6), and (d);

(ii) Broad consent is appropriately documented or waiver of documentation is appropriate, in accordance with § 1028.117; and

(iii) If there is a change made for research purposes in the way the identifiable private information or identifiable biospecimens are stored or maintained, there are adequate provisions to protect the privacy of subjects and to maintain the confidentiality of data.

(b) When some or all of the subjects are likely to be vulnerable to coercion or undue influence, such as children, prisoners, individuals with impaired decision-making capacity, or economically or educationally disadvantaged persons, additional safeguards have been included in the study to protect the rights and welfare of these subjects.

§ 1028.112 Review by institution.

Research covered by this policy that has been approved by an IRB may be subject to further appropriate review and approval or disapproval by officials of the institution. However, those officials may not approve the research if it has not been approved by an IRB.

§ 1028.113 Suspension or termination of IRB approval of research.

An IRB shall have authority to suspend or terminate approval of research that is not being conducted in accordance with the IRB's requirements or that has been associated with unexpected serious harm to subjects. Any suspension or termination of approval shall include a statement of the reasons for the IRB's action and shall be reported promptly to the investigator, appropriate institutional officials, and the department or agency head.

§ 1028.114 Cooperative research.

(a) Cooperative research projects are those projects covered by this policy that involve more than one institution. In the conduct of cooperative research projects, each institution is responsible for safeguarding the rights and welfare of human subjects and for complying with this policy.

(b)(1) Any institution located in the United States that is engaged in cooperative research must rely upon approval by a single IRB for that portion of the research that is conducted in the United States. The reviewing IRB will be identified by the Federal department or agency supporting or conducting the research or proposed by the lead institution subject to the acceptance of the Federal department or agency supporting the research.

(2) The following research is not subject to this provision:

(i) Cooperative research for which more than single IRB review is required by law (including tribal law passed by the official governing body of an American Indian or Alaska Native tribe); or

(ii) Research for which any Federal department or agency supporting or conducting the research determines and documents that the use of a single IRB is not appropriate for the particular context.

(c) For research not subject to paragraph (b) of this section, an institution participating in a cooperative project may enter into a joint review arrangement, rely on the review of another IRB, or make similar arrangements for avoiding duplication of effort.

§ 1028.115 IRB Records.

(a) An institution, or when appropriate an IRB, shall prepare and maintain adequate documentation of IRB activities, including the following:

(1) Copies of all research proposals reviewed, scientific evaluations, if any, that accompany the proposals, approved sample consent forms, progress reports submitted by investigators, and reports of injuries to subjects.

(2) Minutes of IRB meetings, which shall be in sufficient detail to show attendance at the meetings; actions taken by the IRB; the vote on these actions including the number of members voting for, against, and abstaining; the basis for requiring changes in or disapproving research; and a written summary of the discussion of controverted issues and their resolution.

(3) Records of continuing review activities, including the rationale for conducting continuing review of research that otherwise would not require continuing review as described in § 1028.109(f)(1).

(4) Copies of all correspondence between the IRB and the investigators.

(5) A list of IRB members in the same detail as described in § 1028.108(a)(2).

(6) Written procedures for the IRB in the same detail as described in § 1028.108(a)(3) and (4).

(7) Statements of significant new findings provided to subjects, as required by § 1028.116(c)(5).

(8) The rationale for an expedited reviewer's determination under § 1028.110(b)(1)(i) that research appearing on the expedited review list described in § 1028.110(a) is more than minimal risk.

(9) Documentation specifying the responsibilities that an institution and an organization operating an IRB each will undertake to ensure compliance with the requirements of this policy, as described in § 1028.103(e).

(b) The records required by this policy shall be retained for at least 3 years, and records relating to research that is conducted shall be retained for at least 3 years after completion of the research. The institution or IRB may maintain the records in printed form, or electronically. All records shall be accessible for inspection and copying by authorized representatives of the Federal department or agency at reasonable times and in a reasonable manner.

§ 1028.116 General requirements for informed consent.

(a) *General.* General requirements for informed consent, whether written or oral, are set forth in this paragraph and apply to consent obtained in accordance with the requirements set forth in paragraphs (b) through (d) of this section. Broad consent may be obtained in lieu of informed consent obtained in accordance with paragraphs (b) and (c) of this section only with respect to the storage, maintenance, and secondary research uses of identifiable private information and identifiable biospecimens. Waiver or alteration of consent in research involving public benefit and service programs conducted by or subject to the approval of state or local officials is described in paragraph (e) of this section. General waiver or alteration of informed consent is described in paragraph (f) of this section. Except as provided elsewhere in this policy:

(1) Before involving a human subject in research covered by this policy, an investigator shall obtain the legally effective informed consent of the subject or the subject's legally authorized representative.

(2) An investigator shall seek informed consent only under circumstances that provide the prospective subject or the legally authorized representative sufficient opportunity to discuss and consider

whether or not to participate and that minimize the possibility of coercion or undue influence.

(3) The information that is given to the subject or the legally authorized representative shall be in language understandable to the subject or the legally authorized representative.

(4) The prospective subject or the legally authorized representative must be provided with the information that a reasonable person would want to have in order to make an informed decision about whether to participate, and an opportunity to discuss that information.

(5) Except for broad consent obtained in accordance with paragraph (d) of this section:

(i) Informed consent must begin with a concise and focused presentation of the key information that is most likely to assist a prospective subject or legally authorized representative in understanding the reasons why one might or might not want to participate in the research. This part of the informed consent must be organized and presented in a way that facilitates comprehension.

(ii) Informed consent as a whole must present information in sufficient detail relating to the research, and must be organized and presented in a way that does not merely provide lists of isolated facts, but rather facilitates the prospective subject's or legally authorized representative's understanding of the reasons why one might or might not want to participate.

(6) No informed consent may include any exculpatory language through which the subject or the legally authorized representative is made to waive or appear to waive any of the subject's legal rights, or releases or appears to release the investigator, the sponsor, the institution, or its agents from liability for negligence.

(b) *Basic elements of informed consent.* Except as provided in paragraph (d), (e), or (f) of this section, in seeking informed consent the following information shall be provided to each subject or the legally authorized representative:

(1) A statement that the study involves research, an explanation of the purposes of the research and the expected duration of the subject's participation, a description of the procedures to be followed, and identification of any procedures that are experimental;

(2) A description of any reasonably foreseeable risks or discomforts to the subject;

(3) A description of any benefits to the subject or to others that may reasonably be expected from the research;

(4) A disclosure of appropriate alternative procedures or courses of treatment, if any, that might be advantageous to the subject;

(5) A statement describing the extent, if any, to which confidentiality of records identifying the subject will be maintained;

(6) For research involving more than minimal risk, an explanation as to whether any compensation and an explanation as to whether any medical treatments are available if injury occurs and, if so, what they consist of, or where further information may be obtained;

(7) An explanation of whom to contact for answers to pertinent questions about the research and research subjects' rights, and whom to contact in the event of a research-related injury to the subject;

(8) A statement that participation is voluntary, refusal to participate will involve no penalty or loss of benefits to which the subject is otherwise entitled, and the subject may discontinue participation at any time without penalty or loss of benefits to which the subject is otherwise entitled; and

(9) One of the following statements about any research that involves the collection of identifiable private information or identifiable biospecimens:

(i) A statement that identifiers might be removed from the identifiable private information or identifiable biospecimens and that, after such removal, the information or biospecimens could be used for future research studies or distributed to another investigator for future research studies without additional informed consent from the subject or the legally authorized representative, if this might be a possibility; or

(ii) A statement that the subject's information or biospecimens collected as part of the research, even if identifiers are removed, will not be used or distributed for future research studies.

(c) *Additional elements of informed consent.* Except as provided in paragraphs (d), (e), or (f) of this section, one or more of the following elements of information, when appropriate, shall also be provided to each subject or the legally authorized representative:

(1) A statement that the particular treatment or procedure may involve risks to the subject (or to the embryo or fetus, if the subject is or may become pregnant) that are currently unforeseeable;

(2) Anticipated circumstances under which the subject's participation may be terminated by the investigator without regard to the subject's or the legally authorized representative's consent;

(3) Any additional costs to the subject that may result from participation in the research;

(4) The consequences of a subject's decision to withdraw from the research and procedures for orderly termination of participation by the subject;

(5) A statement that significant new findings developed during the course of the research that may relate to the subject's willingness to continue participation will be provided to the subject;

(6) The approximate number of subjects involved in the study;

(7) A statement that the subject's biospecimens (even if identifiers are removed) may be used for commercial profit and whether the subject will or will not share in this commercial profit;

(8) A statement regarding whether clinically relevant research results, including individual research results, will be disclosed to subjects, and if so, under what conditions; and

(9) For research involving biospecimens, whether the research will (if known) or might include whole genome sequencing (*i.e.,* sequencing of a human germline or somatic specimen with the intent to generate the genome or exome sequence of that specimen).

(d) *Elements of broad consent for the storage, maintenance, and secondary research use of identifiable private information or identifiable biospecimens.* Broad consent for the storage, maintenance, and secondary research use of identifiable private information or identifiable biospecimens (collected for either research studies other than the proposed research or nonresearch purposes) is permitted as an alternative to the informed consent requirements in paragraphs (b) and (c) of this paragraph. If the subject or the legally authorized representative is asked to provide broad consent, the following shall be provided to each subject or the subject's legally authorized representative:

(1) The information required in paragraphs (b)(2), (3), (5), and (8) and, when appropriate, (c)(7) and (9) of this section;

(2) A general description of the types of research that may be conducted with the identifiable private information or identifiable biospecimens. This description must include sufficient information such that a reasonable person would expect that the broad consent would permit the types of research conducted;

(3) A description of the identifiable private information or identifiable biospecimens that might be used in

research, whether sharing of identifiable private information or identifiable biospecimens might occur, and the types of institutions or researchers that might conduct research with the identifiable private information or identifiable biospecimens;

(4) A description of the period of time that the identifiable private information or identifiable biospecimens may be stored and maintained (which period of time could be indefinite), and a description of the period of time that the identifiable private information or identifiable biospecimens may be used for research purposes (which period of time could be indefinite);

(5) Unless the subject or legally authorized representative will be provided details about specific research studies, a statement that they will not be informed of the details of any specific research studies that might be conducted using the subject's identifiable private information or identifiable biospecimens, including the purposes of the research, and that they might have chosen not to consent to some of those specific research studies;

(6) Unless it is known that clinically relevant research results, including individual research results, will be disclosed to the subject in all circumstances, a statement that such results may not be disclosed to the subject; and

(7) An explanation of whom to contact for answers to questions about the subject's rights and about storage and use of the subject's identifiable private information or identifiable biospecimens, and whom to contact in the event of a research-related harm.

(e) *Waiver or alteration of consent in research involving public benefit and service programs conducted by or subject to the approval of state or local officials*—(1) *Waiver.* An IRB may waive the requirement to obtain informed consent for research under paragraphs (a), (b), and (c) of this section, provided the IRB satisfies the requirements of paragraph (e)(3) of this section. If an individual was asked to provide broad consent for the storage, maintenance, and secondary research use of identifiable private information or identifiable biospecimens in accordance with the requirements at paragraph (d) of this section, and refused to consent, an IRB cannot waive consent for the storage, maintenance, or secondary research use of the identifiable private information or identifiable biospecimens.

(2) *Alteration.* An IRB may approve a consent procedure that omits some, or alters some or all, of the elements of informed consent set forth in paragraphs (b) and (c) of this section provided the IRB satisfies the requirements of paragraph (e)(3) of this section. An IRB may not omit or alter any of the requirements described in paragraph (a) of this section. If a broad consent procedure is used, an IRB may not omit or alter any of the elements required under paragraph (d) of this section.

(3) *Requirements for waiver and alteration.* In order for an IRB to waive or alter consent as described in this subsection, the IRB must find and document that:

(i) The research or demonstration project is to be conducted by or subject to the approval of state or local government officials and is designed to study, evaluate, or otherwise examine:

(A) Public benefit or service programs;

(B) Procedures for obtaining benefits or services under those programs;

(C) Possible changes in or alternatives to those programs or procedures; or

(D) Possible changes in methods or levels of payment for benefits or services under those programs; and

(ii) The research could not practicably be carried out without the waiver or alteration.

(f) *General waiver or alteration of consent*—(1) *Waiver.* An IRB may waive the requirement to obtain informed consent for research under paragraphs (a), (b), and (c) of this section, provided the IRB satisfies the requirements of paragraph (f)(3) of this section. If an individual was asked to provide broad consent for the storage, maintenance, and secondary research use of identifiable private information or identifiable biospecimens in accordance with the requirements at paragraph (d) of this section, and refused to consent, an IRB cannot waive consent for the storage, maintenance, or secondary research use of the identifiable private information or identifiable biospecimens.

(2) *Alteration.* An IRB may approve a consent procedure that omits some, or alters some or all, of the elements of informed consent set forth in paragraphs (b) and (c) of this section provided the IRB satisfies the requirements of paragraph (f)(3) of this section. An IRB may not omit or alter any of the requirements described in paragraph (a) of this section. If a broad consent procedure is used, an IRB may not omit or alter any of the elements required under paragraph (d) of this section.

(3) *Requirements for waiver and alteration.* In order for an IRB to waive or alter consent as described in this subsection, the IRB must find and document that:

(i) The research involves no more than minimal risk to the subjects;

(ii) The research could not practicably be carried out without the requested waiver or alteration;

(iii) If the research involves using identifiable private information or identifiable biospecimens, the research could not practicably be carried out without using such information or biospecimens in an identifiable format;

(iv) The waiver or alteration will not adversely affect the rights and welfare of the subjects; and

(v) Whenever appropriate, the subjects or legally authorized representatives will be provided with additional pertinent information after participation.

(g) *Screening, recruiting, or determining eligibility.* An IRB may approve a research proposal in which an investigator will obtain information or biospecimens for the purpose of screening, recruiting, or determining the eligibility of prospective subjects without the informed consent of the prospective subject or the subject's legally authorized representative, if either of the following conditions are met:

(1) The investigator will obtain information through oral or written communication with the prospective subject or legally authorized representative, or

(2) The investigator will obtain identifiable private information or identifiable biospecimens by accessing records or stored identifiable biospecimens.

(h) *Posting of clinical trial consent form.* (1) For each clinical trial conducted or supported by a Federal department or agency, one IRB-approved informed consent form used to enroll subjects must be posted by the awardee or the Federal department or agency component conducting the trial on a publicly available Federal Web site that will be established as a repository for such informed consent forms.

(2) If the Federal department or agency supporting or conducting the clinical trial determines that certain information should not be made publicly available on a Federal Web site (*e.g.* confidential commercial information), such Federal department or agency may permit or require redactions to the information posted.

(3) The informed consent form must be posted on the Federal Web site after the clinical trial is closed to recruitment, and no later than 60 days after the last study visit by any subject, as required by the protocol.

(i) *Preemption.* The informed consent requirements in this policy are not intended to preempt any applicable Federal, state, or local laws (including

tribal laws passed by the official governing body of an American Indian or Alaska Native tribe) that require additional information to be disclosed in order for informed consent to be legally effective.

(j) *Emergency medical care.* Nothing in this policy is intended to limit the authority of a physician to provide emergency medical care, to the extent the physician is permitted to do so under applicable Federal, state, or local law (including tribal law passed by the official governing body of an American Indian or Alaska Native tribe).

(Approved by the Office of Management and Budget under Control Number 0990–0260)

§ 1028.117 Documentation of informed consent.

(a) Except as provided in paragraph (c) of this section, informed consent shall be documented by the use of a written informed consent form approved by the IRB and signed (including in an electronic format) by the subject or the subject's legally authorized representative. A written copy shall be given to the person signing the informed consent form.

(b) Except as provided in paragraph (c) of this section, the informed consent form may be either of the following:

(1) A written informed consent form that meets the requirements of § 1028.116. The investigator shall give either the subject or the subject's legally authorized representative adequate opportunity to read the informed consent form before it is signed; alternatively, this form may be read to the subject or the subject's legally authorized representative.

(2) A short form written informed consent form stating that the elements of informed consent required by § 1028.116 have been presented orally to the subject or the subject's legally authorized representative, and that the key information required by § 1028.116(a)(5)(i) was presented first to the subject, before other information, if any, was provided. The IRB shall approve a written summary of what is to be said to the subject or the legally authorized representative. When this method is used, there shall be a witness to the oral presentation. Only the short form itself is to be signed by the subject or the subject's legally authorized representative. However, the witness shall sign both the short form and a copy of the summary, and the person actually obtaining consent shall sign a copy of the summary. A copy of the summary shall be given to the subject or the subject's legally authorized representative, in addition to a copy of the short form.

(c)(1) An IRB may waive the requirement for the investigator to obtain a signed informed consent form for some or all subjects if it finds any of the following:

(i) That the only record linking the subject and the research would be the informed consent form and the principal risk would be potential harm resulting from a breach of confidentiality. Each subject (or legally authorized representative) will be asked whether the subject wants documentation linking the subject with the research, and the subject's wishes will govern;

(ii) That the research presents no more than minimal risk of harm to subjects and involves no procedures for which written consent is normally required outside of the research context; or

(iii) If the subjects or legally authorized representatives are members of a distinct cultural group or community in which signing forms is not the norm, that the research presents no more than minimal risk of harm to subjects and provided there is an appropriate alternative mechanism for documenting that informed consent was obtained.

(2) In cases in which the documentation requirement is waived, the IRB may require the investigator to provide subjects or legally authorized representatives with a written statement regarding the research.

§ 1028.118 Applications and proposals lacking definite plans for involvement of human subjects.

Certain types of applications for grants, cooperative agreements, or contracts are submitted to Federal departments or agencies with the knowledge that subjects may be involved within the period of support, but definite plans would not normally be set forth in the application or proposal. These include activities such as institutional type grants when selection of specific projects is the institution's responsibility; research training grants in which the activities involving subjects remain to be selected; and projects in which human subjects' involvement will depend upon completion of instruments, prior animal studies, or purification of compounds. Except for research waived under § 1028.101(i) or exempted under § 1028.104, no human subjects may be involved in any project supported by these awards until the project has been reviewed and approved by the IRB, as provided in this policy, and certification submitted, by the institution, to the Federal department or agency component supporting the research.

§ 1028.119 Research undertaken without the intention of involving human subjects.

Except for research waived under § 1028.101(i) or exempted under § 1028.104, in the event research is undertaken without the intention of involving human subjects, but it is later proposed to involve human subjects in the research, the research shall first be reviewed and approved by an IRB, as provided in this policy, a certification submitted by the institution to the Federal department or agency component supporting the research, and final approval given to the proposed change by the Federal department or agency component.

§ 1028.120 Evaluation and disposition of applications and proposals for research to be conducted or supported by a Federal department or agency.

(a) The department or agency head will evaluate all applications and proposals involving human subjects submitted to the Federal department or agency through such officers and employees of the Federal department or agency and such experts and consultants as the department or agency head determines to be appropriate. This evaluation will take into consideration the risks to the subjects, the adequacy of protection against these risks, the potential benefits of the research to the subjects and others, and the importance of the knowledge gained or to be gained.

(b) On the basis of this evaluation, the department or agency head may approve or disapprove the application or proposal, or enter into negotiations to develop an approvable one.

§ 1028.121 [Reserved]

§ 1028.122 Use of Federal funds.

Federal funds administered by a Federal department or agency may not be expended for research involving human subjects unless the requirements of this policy have been satisfied.

§ 1028.123 Early termination of research support: Evaluation of applications and proposals.

(a) The department or agency head may require that Federal department or agency support for any project be terminated or suspended in the manner prescribed in applicable program requirements, when the department or agency head finds an institution has materially failed to comply with the terms of this policy.

(b) In making decisions about supporting or approving applications or

proposals covered by this policy the department or agency head may take into account, in addition to all other eligibility requirements and program criteria, factors such as whether the applicant has been subject to a termination or suspension under paragraph (a) of this section and whether the applicant or the person or persons who would direct or has/have directed the scientific and technical aspects of an activity has/have, in the judgment of the department or agency head, materially failed to discharge responsibility for the protection of the rights and welfare of human subjects (whether or not the research was subject to federal regulation).

§ 1028.124 Conditions

With respect to any research project or any class of research projects the department or agency head of either the conducting or the supporting Federal department or agency may impose additional conditions prior to or at the time of approval when in the judgment of the department or agency head additional conditions are necessary for the protection of human subjects.

Alberta E. Mills,

Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 2017–19737 Filed 9–15–17; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1112 and 1229

[Docket No. CPSC–2015–0028]

Safety Standard for Infant Bouncer Seats

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Danny Keysar Child Product Safety Notification Act, section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA), requires the United States Consumer Product Safety Commission (Commission or CPSC) to promulgate consumer product safety standards for durable infant or toddler products. These standards are to be ''substantially the same as'' applicable voluntary standards or more stringent than the voluntary standard, if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the product. The Commission is issuing this final rule establishing a safety standard for infant bouncer seats (bouncer seats) in response to the direction of section 104(b) of the CPSIA. Additionally, the Commission is finalizing an amendment to its regulations regarding third party conformity assessment bodies to include safety standard for bouncer seats in the list of notice of requirements (NORs) issued by the Commission.

DATES: This rule will become effective March 19, 2018. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of March 19, 2018.

FOR FURTHER INFORMATION CONTACT: Keysha Walker, Compliance Officer, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: 301–504–6820; email: *kwalker@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Statutory Authority

The CPSIA was enacted on August 14, 2008. Section 104(b) of the CPSIA requires the Commission to: (1) Examine and assess the effectiveness of voluntary consumer product safety standards for durable infant or toddler products, in consultation with representatives of consumer groups, juvenile product manufacturers, and independent child product engineers and experts; and (2) promulgate consumer product safety standards for durable infant and toddler products. Standards issued under section 104 are to be ''substantially the same as'' the applicable voluntary standards or more stringent than the voluntary standard, if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the product.

The term ''durable infant or toddler product'' is defined in section 104(f)(1) of the CPSIA as ''a durable product intended for use, or that may be reasonably expected to be used, by children under the age of 5 years,'' and the statute specifies twelve categories of products that are included in the definition, including walkers, carriers and various types of children's chairs. When issuing a regulation governing product registration under section 104, the Commission determined that an ''infant bouncer'' falls within the definition of a ''durable infant or toddler product.'' 74 FR 68668 (Dec. 29, 2009); 16 CFR 1130.2(a)(15).

On October 19, 2015, the Commission issued a notice of proposed rulemaking (NPR) for infant bouncer seats. 80 FR 63168. The NPR proposed to incorporate by reference the 2015 version of the voluntary standard, ASTM F2167 *Standard Consumer Safety Specification for Infant Bouncer Seats* (ASTM F2167), as a mandatory consumer product safety rule with several modifications to the content, format, and placement of warning labels and instructions, to strengthen the standard.

In this document, the Commission is issuing a mandatory consumer product safety standard for bouncer seats. As required by section 104(b)(1)(A), the Commission consulted with manufacturers, retailers, trade organizations, laboratories, consumer advocacy groups, consultants, and the public to develop this rule, largely through the ASTM process. Based on revisions to the voluntary standard since the NPR published, the final rule incorporates by reference the most recent voluntary standard for infant bouncer seats, developed by ASTM International, ASTM F2167–17, with two modifications related to warning label content and placement. These modifications strengthen the standard by requiring a more stringent warning to caregivers to use the restraints, even if an infant falls asleep in the bouncer, and requires the fall hazard warning to be placed on the upper seat back of the bouncer seat, to ensure that caregivers read and heed the warning. The Commission's more stringent requirements are intended to further reduce the risk of injury to infants that fall from, and with, bouncer seats, especially bouncer seats that are placed on an elevated surface.

Additionally, the final rule amends the list of NORs issued by the Commission in 16 CFR part 1112 to include the standard for infant bouncer seats. Under section 14 of the CPSA, the Commission promulgated 16 CFR part 1112 to establish requirements for accreditation of third party conformity assessment bodies (or testing laboratories) to test for conformity with a children's product safety rule. Amending part 1112 adds an NOR for the infant bouncer seat standard to the list of children's product safety rules.

II. Product Description

A. Definition of ''Bouncer Seats''

Section 1.2 of ASTM F2167–17 defines an ''infant bouncer seat'' as: ''a freestanding product intended to support an occupant in a reclined position to facilitate bouncing by the occupant, with the aid of a caregiver or by other means.'' Additionally, section 1.2 states that infant bouncer seats are intended for ''infants who have not developed the ability to sit up unassisted (approximately 0 to 6 months of age).''

Bouncer seats vary widely in style and complexity, but typically, bouncer seats consist of a cloth cover stretched over a wire or tubular frame. Wire frame bouncers have two designs. The forward bend design is constructed with the seating area supported from the front side of the product. The second wire frame design is a rear bend design. In the rear bend design, the seat is supported from the rear side of the product. Other bouncer designs are also currently available, including, but not limited to, products with individual wire legs, solid bases, and spring designs. These infant bouncer designs use different methods to support the seat and are intended for ''bouncing,'' as defined in ASTM F2167.

All bouncer seats support the child in an inclined position, and some brands have adjustable seat backs. Various bouncer seat models include a ''soothing unit'' that vibrates or bounces the chair, and may play music or other sounds. Most bouncer seats also feature an accessory bar with attached toys that are, or at some point will be, within the child's reach. Most of the bouncer seat models examined by Commission staff provide a 3-point restraint system, consisting of wide cloth crotch restraints and short adjustable waist straps with plastic buckles. Only two models of bouncer seats reviewed by CPSC for the NPR employed upper body restraints. Many bouncer seat brands also include an ''infant insert,'' intended for use to support smaller babies. Tabs C and D, Staff Briefing Package: Infant Bouncer Seats Notice of Proposed Rulemaking, dated September 30, 2015 (Staff NPR Briefing Package), available at: *http://www.cpsc.gov/Global/Newsroom/FOIA/CommissionBriefingPackages/2015/ProposedRuleSafetyStandardforInfantBouncerSeatSeptember302.pdf.*

B. Market Description

For the final rule, staff identified 23 firms supplying infant bouncer seats to the U.S. market, with several firms moving into or out of the market since the NPR was published. The 23 identified firms primarily specialize in the manufacture and/or distribution of children's products, including durable nursery products. Eight of the 23 known firms are domestic manufacturers and 8 are domestic importers. The remaining seven firms are foreign (four manufacturers, two importers, and one retailer).[1] Tab C, Staff Briefing Package: Final Rule for Infant Bouncer Seats, dated August 23, 2017 (Staff Final Rule Briefing Package), available at: *https://www.cpsc.gov/s3fs-public/Final-Rule-Safety-Standard-for-Infant-Bouncer-Seats-August-23–2017.pdf?ctmyMqMkYWQ1t3QN9DUXCDKnJQ5rKCX6.*

Staff expects that the infant bouncer seats of 14 of these firms already comply with ASTM F2167 because the firms either: (1) Have their bouncers certified by the Juvenile Products Manufacturers Association (JPMA) (five firms); (2) claim compliance with the voluntary standard (eight firms); or (3) have been tested to the ASTM standard by CPSC staff (one firm).[2]

III. Incident Data

For the NPR, CPSC's Directorate for Epidemiology, Division of Hazard Analysis, described 277 reported incidents involving bouncer seats, including 11 fatalities and 51 injuries, occurring between January 1, 2006 and February 2, 2015. The incidents described in the NPR were based on reports involving victims 12 months old and younger in the Injury or Potential Injury Incident (IPII), In-Depth Investigation (INDP), and Death Certificates (DTHS) databases (collectively referred to as Consumer Product Safety Risk Management System data, or CPSRMS data). A detailed discussion of the incidents and hazard patterns developed for the NPR can be found in Tab A of the Staff NPR Briefing Package.

A. CPSRMS Data

For the final rule, CPSC staff reviewed bouncer seat incident reports in CPSRMS from February 2, 2015 through July 6, 2016. CPSC staff found 70 incident reports in addition to those discussed in the NPR, including one fatality and three injuries. The fatality involved a 4-month-old female who died after suffering a fractured skull injury when the infant bouncer she was seated in fell from a table. Two of the reported injuries were head contusions. A 5-month-old male sustained a head contusion when a bouncer seat bent backward to the floor. A 6-month-old male sustained a head contusion when a bouncer cover came off of the wire frame and the infant flipped forward, striking his head on the battery compartment. In another reported incident, the victim suffered minor leg burns from a hot metal bar under a bouncer cover. Tab A, Staff Final Rule Briefing Package.

Staff did not identify any hazards in the updated incident data that were not included in the hazard patterns described in the NPR (product design, structural integrity, toy bar-related, stability, chemical/electric hazards, restraints, hazardous environment), which specifically identified product design and structural integrity as the top two product-related hazards (in terms of frequency of occurrence). Staff found that product design and structural integrity continue to be the top two product-related hazards (in terms of frequency) for the updated CPSRMS data. Of the 70 new incident reports involving bouncer seats, 51 incident reports described issues with product design, and 13 incident reports described issues with structural integrity. Staff determined that almost all of the issues with product design were related to lopsided or low-riding bouncer frames. Data for the final rule can be found in Tab A of the Staff Final Rule Briefing Package.

B. NEISS Data

For the NPR, CPSC staff found 672 bouncer-related incidents, including two fatalities, reported in the National Electronic Injury Surveillance System (NEISS) records retrieved for bouncer incidents from January 1, 2006 to December 31, 2013, involving children 12 months old and younger. Staff found that 385 cases, or an estimated 9,200 injuries, occurred in hazardous environments (counters, tables, and other elevated surfaces).

Staff updated information on bouncer-related incidents from the NEISS records for the final rule. From January 1, 2014 through December 31, 2015, staff found 202 additional NEISS records describing infant bouncer incidents. Staff's inspection of the updated NEISS data revealed that 100 cases, or an estimated 2,800 injuries, took place in hazardous environments. The remaining 102 cases, or an estimated 2,800 injuries, took place on the floor or an unknown location. Staff found no additional fatalities in the NEISS data during this time frame. Staff estimates that 4,700 (85%) bouncer injuries involved the head and face.

ESTIMATED NEISS BOUNCER INJURIES, 2006–2015

[age 0–1]

Year	Cases	Estimated injuries
2006	67	1,400

[1] Staff categorized each firm using information from Dun & Bradstreet and ReferenceUSAGov, as well as firm Web sites.

[2] JPMA typically allows six months for products in their certification program to shift to a new standard once it is published. Therefore, firms are likely already complying with ASTM F2167–16, which was published in May 2016. Firms are not expected to comply with the recently published ASTM F2167–17 until December 2017.

ESTIMATED NEISS BOUNCER INJURIES, 2006–2015—Continued

[age 0–1]

Year	Cases	Estimated injuries
2007	66	1,700
2008	74	1,600
2009	86	2,200
2010	94	2,300
2011	121	3,400
2012	90	2,500
2013	74	2,100
2014	98	2,900
2015	104	2,700
2006–2015	877	22,800

Based on the annual estimates provided in the table, staff found a statistically significant upward trend (p-value of 0.006) in the estimated emergency department-treated injuries involving bouncers for victims under 1-year-old from 2006 to 2015.

IV. Product Recalls

The NPR described two recalls of infant bouncer seats since January 2006, involving two different firms, one recall in April 2007 [3] (involving breakage of a tubular steel frame) and another recall in July 2009 [4] (involving small, sharp metal objects that could protrude through the bouncer fabric). No injuries were associated with either product at the time of the recall. See Tab E, Staff NPR Briefing Package. For the final rule, staff reports that no additional recalls involving bouncer seats have occurred.

V. Overview and Assessment of ASTM F2167

A. Overview

The voluntary standard for infant bouncer seats, ASTM F2167, *Standard Consumer Safety Specification for Infant Bouncer Seats,* is intended to minimize the risk of injury or death to infants in bouncer seats associated with falls from elevated surfaces, product disassembly or collapse, stability, and suffocation. ASTM F2167 was first approved in December 2001, and the standard published in January 2002. Since then, ASTM has revised the standard 11 times. Tab C of the Staff NPR Briefing Package includes a description of these revisions through 2015.[5]

More recently, in May 2016, ASTM revised the standard to add specific developmental guidance for caregivers about when to stop using the bouncer, and ASTM removed a general requirement for banned toys or other articles because those requirements do not apply to infant bouncer seats. As discussed below, the standard was subsequently revised in June of 2017 to incorporate changes recommended by ASTM's Ad Hoc Task Group [6] concerning warning label formatting requirements, and to add a requirement that limits the maximum weight of an occupant in an infant bouncer seat. The June 2017 version of the voluntary standard also removed a requirement for manufacturers of bouncer seats to change the model number whenever the product underwent a significant structural or design modification. We agree with ASTM that although changing the model number represents a best practice, most ASTM standards do not include the statement, and such practice does not impact the safety of the product.

B. Assessment of the Voluntary Standard

For the NPR, CPSC staff examined the relationship between the performance requirements in ASTM F2167–15 and each of the hazard patterns staff identified in the incident data for bouncer seats. Tab C, Staff NPR Briefing Package. Based on staff's assessment, the Commission issued the NPR proposing to incorporate ASTM F2167–15 with the following modifications to warnings content, placement, and format:

- Revised content of the warnings, markings, and instructions:
  - —Modify text in the warnings stating to use the restraints ''*even if baby is sleeping*'';
  - —change the text in the warnings to read, ''stop using when baby starts trying to sit up''; and
  - —change the developmental guidance in the instructions, if stated, to read: ''from birth (or ''0'') until baby starts trying to sit up.''
- Restricted the fall hazard label on the front surface of the bouncer to be adjacent to the area where the child's head would rest, and modified the visibility test to reflect this requirement.
- Specified a standard format (including black text on a white background, table design, bullet points, and black border) for the warnings on the product and in the instructions.

The most recent version of the voluntary standard for bouncer seats, ASTM F2167–17, was approved on June 1, 2017, and published in June 2017. ASTM F2167–17 includes modified and new performance and labeling requirements developed by ASTM in conjunction with stakeholders and CPSC staff on the ASTM subcommittee task group, to address the hazards associated with bouncer seats. ASTM F2167–17 addresses several of the hazards identified by the Commission in the NPR. Accordingly, after reviewing and considering comments received in response to the NPR, as well as the work of the Ad Hoc Task Group, the Commission incorporates by reference ASTM F2167–17, with two modifications that were identified in the NPR related to warning content and warning placement, as the mandatory safety standard for infant bouncer seats. Below we assess ASTM F2167–17 and explain how it differs from what the Commission proposed.

1. Content of the Warnings, Markings, and Instructions

The NPR proposed to incorporate by reference ASTM F2167–15, with modifications to warning, marking, and instruction requirements. ASTM F2167–15 advised caregivers: ''Always use restraints. Adjust to fit snugly.'' Based on the incident data that relate deaths to suffocation among unrestrained infants while they slept, and relate serious head injuries to unrestrained infants due to falls from bouncer seats that are placed on elevated surfaces and falls from bouncer seats that are being carried by caregivers, the Commission stated in the NPR that the voluntary standard was inadequate to address the risk of injury to infants from falls out of bouncer seats, or the risk of suffocation among unrestrained infants who are sleeping. In the NPR, the Commission proposed warning language stating: ''Adjust to fit snugly, *even if baby is*

[3] CPSC link to recalled product: *http://www.cpsc.gov/en/Recalls/2007/Infant-Bouncer-Seats-Recalled-Due-to-Frame-Failure/.*

[4] CPSC link to recalled product: *http://www.cpsc.gov/en/Recalls/2009/BabySwede-LLC-Recalls-Bouncer-Chairs-Due-to-Laceration-Hazard/.*

[5] Prior to the NPR publishing in October 2015, ASTM F2167 was revised several times as part of the rulemaking consultation process. In February 2014 (ASTM F2167–14) the standard was revised to improve the sideward and rearward stability tests. Additionally in 2014, ASTM F2167–14a included changes to the stability test to make the ASTM standard more strict, to address tip-over incidents, and to add requirements and test procedures to address incidents involving battery leakage, corrosion, and overheating.

[6] The Ad Hoc Task Group was formed by ASTM and consists of members of the various voluntary standards groups whose standards are affected by the durable nursery product rules. The purpose of the Ad Hoc Task Group is to harmonize the wording and warning label format of durable infant and toddler products. Ad Hoc Task Group recommendations for warning statements were originally published as a reference document titled, ''Ad Hoc Wording—May 4, 2016,'' as part of the F15 Committee Documents, and subsequently, the recommendations were revised and published in October 2016, with the title, ''Ad Hoc Approved Wording, Revision A—October 17, 2016'' (Ad Hoc Approved Wording).

sleeping.'' Tab D, Staff NPR Briefing Package.

The newest version of the voluntary standard, ASTM F2167–17, still does not require a warning statement that caregivers should use the restraints, even if an infant is asleep. We disagree with this approach. We note that some NPR commenters were concerned by the addition of language to the product warnings regarding sleep because such language may suggest that bouncer seats are intended to be used for long-term, unattended, sleep. However, CPSC staff advises that young infants, such as those who are intended to use bouncer seats, spend more time asleep than awake.[7] Infants spending more than brief periods in a bouncer seat will fall asleep on occasion (and caregivers will place infants to sleep in bouncer seats under some circumstances), just as infants will fall asleep in strollers, swings, and car-seat carriers. It may be counterintuitive, and therefore unlikely to occur to consumers, that products made for infants' use, especially those that have features intended to sooth and comfort infants, would be unsafe places for infants to sleep. In fact, despite claims that bouncer seats are not intended for children to sleep in, CPSC staff found that some manufacturers' marketing suggests that bouncers are intended for sleep as well as play. Moreover, incident data and Health Sciences' assessment demonstrate that the severity of injury from a fall from a bouncer seat increases for a child who is unrestrained. Accordingly, in the final rule, the Commission requires that the fall hazard warning state that caregivers should use the restraints, *even if baby falls asleep.*

Based on staff's recommendation and the work of the Ad Hoc Task Group, the final rule uses the phrase ''falls asleep'' instead of the phrase ''is sleeping'' that the Commission had proposed in the NPR. This change aligns with wording approved by the Ad Hoc Task Group, which is ''*Never leave child unattended, even if child falls asleep.*'' The Ad Hoc Task Group intends for this warning to be used on products for infants who are likely to fall asleep in the product, but which are not intended for periods of unattended sleep (*i.e.* bouncers, swings, infant rockers, and handheld carriers).[8] The Commission notes that the final rule does not preclude manufacturers from including an additional statement indicating that bouncers are not intended for long term sleep. Accordingly, the required fall and suffocation warning label text regarding use of restraints for the final rule is:

- Always use restraints and adjust to fit snugly, even if baby falls asleep.

ASTM F2167–17 includes the other modifications the Commission had proposed for warning statement requirements. Specifically, sections 8.5.2.1 and 9.2.1 Fig. 11 of ASTM F2167–17 requires text in the warnings to state: ''stop using when baby starts trying to sit up.'' ASTM F2167–17 requires additional text in the suffocation hazard warning label to limit the maximum weight for an occupant in an infant bouncer seat. The rationale for ASTM's change is based on surveillance of the marketplace, which demonstrated that some manufacturers have weight limits that do not correlate to the developmental milestones contemplated in the current warnings. Section 8.5.2.1 of ASTM F2167–17 requires text in the warnings to instruct caregivers to: ''STOP using bouncer when baby starts trying to sit up or has reached [insert manufacturer's recommended maximum weight, not to exceed 20 lb], whichever comes first.''

2. Warning Label Placement and Visibility Test

The NPR proposed a modification to ASTM F2167–15's requirement for label placement. ASTM F2167–15 required that the fall hazard label be placed on the front surface of the bouncer seat back so that it is visible when a newborn CAMI dummy is placed in the bouncer seat. In the NPR, the Commission assessed this provision of the voluntary standard and found that it did not adequately address the risk of injury to infants falling from bouncer seats placed on elevated surfaces, a foreseeable misuse of infant bouncer seats. Tab D, Staff NPR Briefing Package. To strengthen the standard and further reduce the risk of injury, the NPR proposed that the fall hazard warning label be on the front surface of the bouncer seat, adjacent to where the child's head would rest, and the NPR also modified the visibility test. ASTM F2167–17 retains the fall hazard warning placement and corresponding visibility test from ASTM F2167–15. Thus, the current voluntary standard still does not address the Commission's concern about the visibility of the fall hazard warning.

NPR Commenters expressed concern that some products were designed with insufficient space in the area adjacent to the child's head to accommodate the necessary warning labels. Commenters were also concerned about the repeatability of the visibility test proposed in the NPR. We note, however, that staff's research on the seat back space, including models with narrow seat backs, did not corroborate the commenters' concerns. Nevertheless, to enhance test repeatability and to address the comments regarding insufficient seat back space for warning labels, the final rule allows a larger area for warning label placement than proposed in the NPR and clarifies the corresponding visibility test.

The visibility test in the final rule is based on ASTM F2167–17. Using the CAMI dummy, as shown in Figure 1 below, the allowable area for warning label placement starts from a dotted line that crosses the junctions of underarm and both sides of the torso of the CAMI dummy.

[7] For example, see the American Academy of Pediatrics Web site, *http://www.healthychildren.org/English/ages-stages/baby/sleep/Pages/default.aspx.*

[8] During the April 2017 ASTM meetings, several Ad Hoc Task Group members requested the removal of this sentence from the Ad Hoc recommendations because no subcommittee had adopted the sentence. In the discussions, some manufacturers stated that these products are not appropriate for sleep, stating that the language ''even if baby falls asleep,'' may mislead caregivers. The Ad Hoc Group balloted the removal of the sentence in June 2017; however, the ballot received multiple negative votes and did not pass.

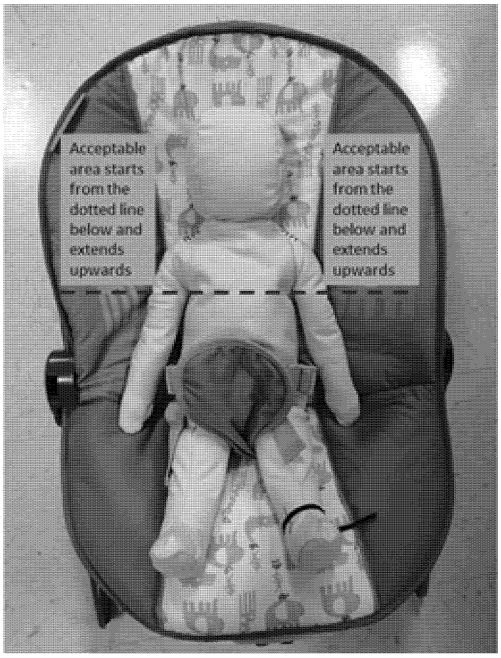

Figure 1. Warning Label Placement

This observable line expands the seat back space allowed for warning labels and clarifies the precision of the visibility test, both of which address commenter concerns.

3. Warning Label Format

The NPR proposed modifications to the requirements in ASTM F2167–15 regarding the format of warning labels noting that ASTM F2167–15 did not provide for a consistent warning label format across infant bouncer seats. Staff evaluated the warnings format in the voluntary standard and recommended that the Commission establish minimum requirements for presenting the hazard information that are consistent with best practices to attract and maintain attention, as well as aid reading and comprehension. Tab D, Staff NPR Briefing Package. Accordingly, the NPR proposed to specify a standard format (including black text on a white background, table design, bullet points, and black border) for the warnings on bouncer seats and in the instructions.

Since the NPR published in 2015, ASTM's Ad Hoc Task Group issued recommendations regarding warnings intended to apply across juvenile products. These recommendations, based on ANSI Z535.4, *American National Standard for Product Safety Signs and Labels,* have been incorporated into ASTM F2167–17. The Commission notes that Human Factors staff regularly cites ANSI Z535.4 as a baseline in developing warning materials, including those proposed in the bouncer seat NPR. The approved Ad Hoc Task Group recommendations are very similar to the ANSI Z535.4, with modifications to make the recommendations more stringent. The recommendations provide noticeable and consistent warning labels on infant bouncer seats and across juvenile products. Accordingly, for the final rule, the Commission incorporates by reference ASTM F2167–17, without any modifications to the formatting provisions.

VI. Response to Comments

CPSC received six comments in response to the NPR, including a joint letter submitted by four consumer advocacy groups. Three commenters supported the changes proposed in the NPR, and the remaining commenters expressed concern over the Commission's proposed modifications. We summarize and respond to the commenters below.

A. Warning Label Location

Comment 1: One commenter stated that the proposed requirement for the fall hazard warning label to be adjacent to an infant's head would necessitate a wider seat back to accommodate a warning label in multiple languages, which is desirable for international sales. According to the same commenter, the ASTM F15.21 Subcommittee had already evaluated this location and concluded that other locations above and below the infant's head were considered to be just as visible as the locations adjacent to an infant's head. A second commenter stated that the proposed fall hazard label visibility test procedure is not specific and can be misinterpreted by test labs. This commenter suggested using the test protocol in the current ASTM standard that uses the CAMI newborn dummy.

Response 1: Based on the incident data and research, the final rule requires that the fall hazard warning label be placed near the child's face. This location allows caregivers to notice the label while making eye contact with the infant, and potentially creates mental images of the consequence (''skull fracture'') of not complying with the instructions because the warning label would be placed next to the body part at risk. Tab D, Staff NPR Briefing Package.

Commenters claim that the area on the infant bouncer adjacent to an infant's head could be severely limited in some cases due to the design of the seat back and allowance needed for stitching tolerances. CPSC staff's research did not corroborate this claim. Tab D, Staff NPR Briefing Package. Accordingly, the NPR, 80 FR at 63179–80, invited commenters to provide information on costs and design changes that would be required if the label were required to be next to an infant's head. Staff reports that during the ASTM Ad Hoc Task Group meetings held in January and February 2016, manufacturers provided several examples of juvenile products, including infant bouncer seats, to demonstrate difficulties associated with warning label placement in proposed

locations. However, NPR commenters provided neither cost estimates, nor specific comments, other than stating that the location would require a wider seat back and would limit representing multiple languages.

To resolve concerns about the amount of space for warning label placement and address the Commission's concern about an effective warning label, the final rule states the test procedure language in ASTM F2167–17, but clarifies the allowable area for the fall hazard warning label. The fall hazard warning label must be visible when placed above an imaginary horizontal line that crosses through the junctions of underarm and side of the torso (armpits) on both left and right of the CAMI, and not obscured by any part of the dummy. A warning label located at or around the infant's shoulders can address the visibility and caregiver motivational concerns expressed in the Human Factors staff memorandum for the NPR (Tab D), and also provide additional surface area to accommodate the recommended warning label.

B. Warning Label Format

Comment 2: Two commenters recommended against the proposed formatting requirements. Commenters specifically highlighted the following proposed warning formatting requirements:

- A heavy black border around the label,
- Delineating message panels with solid lines,
- Black text on white message panel,
- Bullet points preceding precautionary statements,
- Choosing a background color for the signal word panel based on a best contrast against the product material, and
- Using non-condensed style font.

Commenters stated that, in general, ASTM standards provide flexibility to manufacturers to pick colors and formatting features that are most appropriate for the product. One commenter recommended delaying the publication of the final rule for any and all warnings requirements until the warnings format and content revisions proposed in the NPR can be reviewed by ASTM Ad Hoc Task Group, balloted through the ASTM process, and then implemented into F2167. The same commenter also indicated that the formatting requirements in the bouncer NPR and several other NPRs are inconsistent with each other.

Response 2: Human Factors staff at CPSC employs the ANSI Z535.4, *American National Standard for Product Safety Signs and Labels* as a baseline to develop warning materials. Since the NPR was published, the ASTM Ad Hoc Task Group met and made recommendations for warning label formatting across juvenile products. The ASTM Ad Hoc Task Group's recommendations are based on ANSI Z535.4 and are more stringent than the ANSI Z535 series. ASTM 2167–17 now incorporates recommendations made by the Ad Hoc Task Group. Accordingly, the final rule incorporates by reference ASTM 2167–17 without any modifications to warning label format.

C. Warning Label Content

Comment 3: Two commenters recommended against the proposed addition of ''even if baby is sleeping'' to the end of the precautionary statement: ''Always use restraints. Adjust to fit snugly.'' One commenter believes that this statement implies that sleeping in a bouncer is acceptable and may encourage caregivers to use the product for extended periods of sleep. The second commenter believes that this statement contradicts the warning to never leave children unattended.

Response 3: Incident data associated with bouncer seats demonstrate that unrestrained infants suffer serious head injuries from falls and get into compromised positions that may result in suffocation. Tab A, Staff NPR Briefing Package; Tab A, Staff Final Rule Briefing Package. Young infants will sleep in bouncers as they spend more time asleep than awake. Tab D, Staff NPR Briefing Package. Some bouncers in the market include references to calming and soothing features of a bouncer, as well as appropriateness for short periods of sleep in a bouncer, such as ''Your child can also sleep for short periods of time in the bouncer if he or she is content doing so.'' Based on incident data, the final rule requires that the warning statement reference sleep to reflect this foreseeable product use scenario and to address the risk of injury from falls.

In October 2016, the ASTM Ad Hoc Task Group approved a recommended warning to address products likely to be used for short-term sleep.[9] The Commission agrees with the Ad Hoc Task Group's language and has modified the warning in the final rule to use the phrase ''even if child falls asleep'' to align with the Ad Hoc Task Group's language. Manufacturers who produce bouncers in which infants should not be allowed to sleep may add language to their warnings statements alerting caregivers to this issue.

Comment 4: One commenter recommended that the ASTM subcommittee reach a consensus on the need for the additional proposed language: ''Stop using bouncer when baby starts trying to sit up.''

Response 4: At the January 12, 2016 ASTM meeting, the F15.18 subcommittee on Infant Bouncer Seats reviewed and agreed with the Commission's proposed language on developmental guidance. ASTM balloted and approved the proposed language, and such language has been included in ASTM F2167 since the 2016 version of the standard.

D. Other Warning Label Issues

Comment 5: Two commenters recommended that the warning label be attached on the product using embroidery or stamping to increase its permanency.

Response 5: The ASTM standard does not require a certain type of attachment for labels but requires the labels to be tested per section 7.8 to determine the labels' permanency. A similar permanency test procedure is used in other ASTM standards. No data were provided by the commenter, and the Commission has no information suggesting that these requirements are ineffective. Accordingly, the Commission incorporates by reference ASTM F2167–17, without any modification to section 7.8.

Comment 6: Three commenters recommended using pictures to clarify warning messages.

Response 6: The Commission acknowledges that well-designed graphics can be useful to increase the noticeability of the warnings as they help capture a user's attention. Pictograms are also helpful for users with limited or no English literacy. However, the design of effective graphics can be difficult. To avoid confusing consumers, a warning pictogram should be developed with an empirical study and well tested on the target audience. Although the Commission may take action in the future if it believes graphic symbols are needed to reduce the risk of injury associated with bouncer seats, the rule permits, but does not mandate, such supporting graphics.

VII. Incorporation by Reference

Section 1229.2(a) of the final rule provides that infant bouncer seats must comply with applicable sections of

[9] The recommended wording is as follows: ''Products likely to be used for infants who are sleeping (*i.e.,* bouncers, swings, infant rockers, handheld carriers) that are not intended for periods of unattended sleep, would benefit from this warning about unattended use. *Never leave child unattended, even if child falls asleep.*''

ASTM F2167–17. The OFR has regulations concerning incorporation by reference. 1 CFR part 51. These regulations require that, for a final rule, agencies must discuss in the preamble to the rule the way in which materials that the agency incorporates by reference are reasonably available to interested persons, and how interested parties can obtain the materials. Additionally, the preamble to the rule must summarize the material. 1 CFR 51.5(b).

In accordance with the OFR's requirements, the discussion in section VIII of this preamble summarizes the required provisions of ASTM F2167–17. Interested persons may purchase a copy of ASTM F2167–17 from ASTM, either through ASTM's Web site, or by mail at the address provided in the rule. A copy of the standard may also be inspected at the CPSC's Office of the Secretary, U.S. Consumer Product Safety Commission, as discussed above. Note that the Commission and ASTM arranged for commenters to have ''read only'' access to ASTM F2167–15 during the NPR's comment period.

VIII. Description of the Final Rule

Section 1229.2(a) of the final rule for infant bouncer seats incorporates by reference ASTM F2167–17 with two modifications, as stated in § 1229.2(b), related to the content and placement of warnings. Section 1229.2(a) includes the following key provisions summarized below: scope, terminology, general requirements, performance requirements, test methods, marking and labeling, and instructional literature. As described below, § 1229.2(b) includes modifications to test methods (§ 1229.2(b)(1)), marking and labeling (§ 1229.2(b)(2) and (3)), and instructional literature (§ 1229.2(b)(4)).

Scope. Section 1 of ASTM F2167–17 states the scope of the standard, detailing what constitutes an ''infant bouncer seat.'' As stated in section II.A of this preamble, the Scope section defines an ''infant bouncer seat'' as ''a freestanding product intended to support an occupant in a reclined position to facilitate bouncing by the occupant, with the aid of a caregiver or by other means.'' ASTM F2167–17 states that infant bouncer seats are intended for ''infants who have not developed the ability to sit up unassisted (approximately 0 to 6 months of age).''

Terminology. Section 3 of ASTM F2167–17 provides definitions of terms specific to this standard.

General Requirements. Section 5 of ASTM F2167–17 addresses numerous hazards with several general requirements, most of which are also found in the other ASTM juvenile product standards. Several requirements reference an existing CPSC standard. The following general requirements apply to bouncer seats. Where the ASTM standard relies on a CPSC mandatory standard, the mandatory standard is cited in parentheses next to the requirement:

- Hazardous sharp points and edges (16 CFR 1500.48 and 1500.49);
- Small parts (16 CFR part 1501);
- Lead in paint (16 CFR part 1303);
- Wood parts;
- Latching and locking mechanisms;
- Scissoring, shearing, and pinching;
- Openings;
- Exposed coil springs;
- Protective components;
- Permanency of labels and warnings; and
- Toys (ASTM F963).

Performance Requirements and Test Methods. Sections 6 and 7 of ASTM F2167–17 contain performance requirements specific to bouncer seats, as well as test methods that must be used to assess conformity with such requirements. Accordingly, the final rule includes performance requirements for the following:

- Restraints;
- Stability (forward, sideward, and rearward);
- Slip Resistance
- Structural Integrity;
- Dynamic and Static Load;
- Disassembly/Collapse;
- Drop Test;
- Toy Bar Attachment Integrity; and
- Battery Compartment.

Additionally, section 7 of ASTM F2167–17 includes test procedures to ensure the permanency of labels and warnings, and a fall hazard visibility test. The test procedure in § 1229.2(b)(1) of the final rule replaces the fall hazard visibility test in section 7.11.3.1 of ASTM F2167–17, as described in section V.B.2 of this preamble.

Marking and Labeling. Section 8 of ASTM F2167–17 requires products to be marked or labeled with manufacturing information and relevant product warnings. Warning label requirements for bouncer seats in section 8.4.5 of ASTM F2167–17 require two groups of warning statements, a fall hazard warning and a suffocation warning. ASTM F2167–17 includes warning language and formatting requirements for both falls and suffocation warnings. Section 8.4.7.1 requires the fall hazard warning to be placed on the front surface of the infant bouncer seat back, so that it complies with the visibility requirement in section 7.11.

Section 1229.2(b)(2) of the final rule replaces the content of the fall hazard warning in section 8.5.1.1 of ASTM F2167–17. Section 1229.3(b)(3) of the final rule replaces the content of the suffocation hazard warning in sections 8.5.2.1 and 8.5.3 in ASTM F2167–17. Changes to warning content and the visibility test for the placement of the fall hazard warning are outlined in section V.B.1–2 of this preamble.

Instructional Literature. Section 9 of ASTM F2167–17 requires that instructions be provided with bouncer seats and be easy to read and understand. Additionally, the section contains requirements relating to instructional literature contents, including warnings.

Section 1229.2(b)(4) of the final rule replaces the content of sections 9.2.1 and 9.2.2 of ASTM F2167–17. These sections contain example warning labels or references to example warning labels. The content of the example warning labels in § 1229.2(b)(4) reflects changes to the content of the fall hazard warning and suffocation hazard warning in § 1229.2(b)(2) and (3) of the final rule. Changes to the instructional literature that relate to warnings content are outlined in section V.B.1–2 of this preamble.

IX. Effective Date

The Administrative Procedure Act (APA) generally requires that the effective date of a rule be at least 30 days after publication of the final rule. 5 U.S.C. 553(d). CPSC generally considers 6 months to be sufficient time for suppliers of durable infant and toddler products to come into compliance with a new standard under section 104 of the CPSIA. Six months is also the period that the Juvenile Products Manufacturers Association (JPMA) typically allows for products in the JPMA certification program to transition to a new standard once that standard is published. The Commission proposed a 6-month effective date in the NPR for infant bouncer seats and we received no comments on the proposed effective date. Accordingly, the final rule for bouncer seats, as well as the amendment to part 1112, has a 6-month effective date.

X. Regulatory Flexibility Act

A. Introduction

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, requires that agencies review a proposed rule and a final rule for the rule's potential economic impact on small entities, including small businesses. Section 604 of the RFA generally requires that agencies prepare a final regulatory flexibility analysis (FRFA) when promulgating final rules,

unless the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Staff prepared a FRFA that is available at Tab C of the Staff Final Rule Briefing Package. We provide a summary of the FRFA below.

The final rule is unlikely to have a significant economic impact on the five domestic manufacturers of infant bouncer seats. Of the six small importers, a significant economic impact cannot be ruled out for four of the importers, either as a result of the final rule requirements or the resulting third party testing costs. Therefore, the Commission cannot rule out a significant economic impact for four of the 11 firms (36 percent) operating in the U.S. market for bouncers.

B. The Product

An infant bouncer seat is defined in ASTM F2167–17, *Standard Consumer Safety Specification for Infant Bouncer Seats,* as ''a freestanding product intended to support an occupant in a reclined position to facilitate bouncing by the occupant, with the aid of a caregiver or by other means.'' These products vary widely in price; they can be purchased for as little as $20, but can also easily cost more than $200.

C. The Market for Infant Bouncer Seats

For the FRFA, the Commission identified 23 firms supplying infant bouncer seats to the U.S. market, with several firms moving into or out of the market since the NPR. These firms primarily specialize in the manufacture and/or distribution of children's products, including durable nursery products. Eight of the 23 known firms are domestic manufacturers and eight are domestic importers. The remaining seven firms are foreign (4 manufacturers, 2 importers, and 1 retailer).[10] We expect that the infant bouncer seats of 14 of these firms already comply with ASTM F2167 because the firms either: (1) Have their bouncers certified by JPMA (five firms); (2) claim compliance with the voluntary standard (eight firms); or (3) have been tested to the ASTM standard by CPSC staff (one firm).[11]

[10] Staff categorized each firm using information from Dun & Bradstreet and ReferenceUSAGov, as well as firm Web sites.

[11] JPMA typically allows six months for products in their certification program to become compliant with a new voluntary standard once it is published. Therefore, firms are likely already complying with ASTM F2167–16, which was published in May 2016. They are not expected to comply with the recently published ASTM F2167–17 until December 2017.

D. Impact on Small Businesses

The Commission is aware of approximately 23 firms currently marketing infant bouncer seats in the United States, 16 of which are domestic. Under U.S. Small Business Administration (SBA) guidelines, a manufacturer of infant bouncer seats is categorized as small if it has 500 or fewer employees, and importers and wholesalers are considered small if they have 100 or fewer employees. We have limited our analysis to domestic firms because SBA guidelines and definitions pertain to U.S.-based entities. Based on these guidelines, the Commission determined that about 11 of the 23 firms are small—five domestic manufacturers and six domestic importers. Additional unknown small domestic infant bouncer seat suppliers may be operating in the U.S. market.

1. Small Manufacturers

The economic impact of the final rule for infant bouncer seats should be small for the five small domestic manufacturers. Each firm has an established history of compliance with the ASTM standard for infant bouncers and is therefore expected to be compliant with ASTM F2167–17, the version of the voluntary standard upon which the final rule is based, by the time the mandatory standard becomes final.

None of these firms includes more than four languages in their warnings and redesign is not expected. Based upon staff's inspection of their products, we expect products to have more than sufficient space for the required warning labels under the modified warning label for the final rule without the products seeming cluttered.

Under section 14 of the CPSA, once the new infant bouncer seat requirements become effective, all manufacturers will be subject to the third party testing and certification requirements under the CPSA and the Testing and Labeling Pertaining to Product Certification rule (16 CFR part 1107) (1107 rule). Third party testing will include any physical and mechanical test requirements specified in the final infant bouncer seats rule. Manufacturers and importers should already be conducting required lead testing for bouncer seats.

Third party testing costs are in addition to the direct costs of meeting the infant bouncer seats standard. The Initial Regulatory Flexibility Analysis (IRFA) prepared for the NPR concluded that we could not rule out a significant economic impact, given that we do not know specifically how much the third party requirement adds to testing costs or precisely how many models are needed to meet the ''high degree of assurance'' standard but that it was unlikely to be economically significant for most small manufacturers (*i.e.,* testing costs would be less than 1 percent of gross revenue). Given that these firms are already testing to the voluntary standard and the Commission received no public comments about third party testing, the Commission believes that it is unlikely that third party testing would have a significant economic impact on any of the five small manufacturers.

2. Small Importers

a. Small Importers With Compliant Infant Bouncer Seats

As noted in the IRFA, imported bouncers tend to be produced to meet the requirements for several trading partners simultaneously, including their different labeling requirements. Producers for international markets typically address labeling requirements for their various trading partners by simply providing a warning that covers all required safety issues in multiple languages. Specificity regarding warning label location impacts the practicability of replicating the warning label in multiple languages. This could mean that foreign producers will need to design a product for the U.S. market or reduce the number of languages used for warnings on U.S.-bound bouncer seats.

The final rule provides additional space for warning label placement than that proposed in the NPR. With this additional space, reducing on-product warning languages should be a more viable alternative for firms than it was under the NPR proposal. Firms would not need to reduce the number of languages for their on-product warnings for the final rule as significantly as that required in the NPR. The additional space addresses the location requirement in the final rule, while ensuring that the appearance of bouncers remains comparable to firms' competitor products (for which one to three languages is typical).

Three small importers of infant bouncer seats are currently in compliance with the voluntary standard; these firms likely would continue compliance as new versions of the voluntary standard are published. One importer is unlikely to experience a significant economic impact, even if the importer opted to redesign its bouncers to accommodate more than eight warning label languages. The cost estimate to redesign an infant bouncer (based on information from several

firms) is between $200,000 and $300,000, which is less than 1 percent of this firm's revenue. The remaining two small importers of compliant bouncer seats might experience significant economic costs, based on the same comparison (*i.e.,* $200,000 to $300,000 could represent more than 1 percent of their annual revenue). Although the Commission does not expect that these firms would require space for warning labels in more than eight languages, we cannot rule out a significant economic impact for one of these two firms, given an extremely low revenue level compared to estimated costs for redesign. The second firm appears to have the option of exiting the bouncer market without experiencing a significant impact.

b. Small Importers With Noncompliant Infant Bouncer Seats

Three firms import bouncers that do not comply with the voluntary standard. The bouncers for these firms will require changes to come into compliance with the voluntary standard as well as modifications to meet the warning label requirements in the final rule. In the absence of information on precisely what changes would be required to bring the bouncer seats supplied by all three firms into compliance with the final rule (as well as information on sales revenue for all three firms), the Commission cannot rule out a significant economic impact for any of these firms.

The magnitude of the economic impact on the three firms with noncompliant infant bouncer seats will depend upon the cost of the changes required and the degree to which their supplying firms pass on any increases in production costs associated with changes to the product needed to meet the mandatory standard (a redesign is estimated to cost between $200,000 to $300,000). Two of the firms are directly tied to their foreign suppliers and therefore, finding an alternate supply source would not be a viable alternative. However, given this close relationship, it seems likely that their foreign suppliers would have an incentive to work with their U.S. subsidiaries to maintain an American market presence. One of those two firms likely would only avoid a significant economic impact if their supplier absorbed 100 percent of the cost of a redesign. The third firm imports and wholesales a wide variety of children's products. We do not know, however, how much of the firm's revenue is due to bouncer sales and cannot determine what impact discontinuing bouncer sales might have on the third firm should the firm be unable to find a supplier of bouncers that comply with the standard.

Based on the additional space provided in the final rule for placement of the fall hazard warning label, two of these firms should not require modifications to meet the requirement in the final rule (although they would have required modifications under the NPR).

c. Third Party Testing Costs for Small Importers

As with manufacturers, all importers will be subject to third-party testing and certification requirements, and consequently, will be subject to costs similar to those for manufacturers if their supplying foreign firm(s) does not perform third party testing. Half of the bouncer seat importers (3 of 6) are already testing their products to verify compliance with the ASTM standard, and any costs would be limited to the incremental costs associated with third party testing over the current testing regime.

The Commission was able to obtain revenue data for one of the small importers with noncompliant bouncers. For that importer, third party testing costs, considered alone and apart from any additional performance requirements due to the final rule, would not exceed one percent of gross revenue unless around 12 units per model required testing to provide the ''high degree of assurance'' required by 16 CFR part 1107. The Commission has no basis for estimating the size of the impact for the remaining two importers of noncompliant bouncers.

E. Summary of Impacts

The Commission is aware of 11 small firms, five domestic manufacturers and six domestic importers, currently marketing infant bouncer seats in the United States. With regards to the five domestic manufacturers, the Commission considers it unlikely that testing costs would have a significant impact on any of these firms. Of the six small importers, a significant economic impact cannot be ruled out for four of the importers either as a result of the final rule requirements or the resulting third party testing costs. Therefore, the Commission cannot rule out a significant economic impact for four of the 11 firms (36 percent) operating in the U.S. market for bouncers.

F. Alternatives

One of the alternatives to reduce the impact on small entities discussed in the NPR was to adopt the voluntary standard with all of the modifications to the on-product warning labels, except for the location specificity (*i.e.,* next to the child's head). Based on comments received, the requirements regarding on-product warning label placement have been modified in the final rule (*i.e.,* up from the child's armpits on either side). This modification provides additional room and will reduce the economic impact of the warning label location specificity on small suppliers. The Commission could further reduce the economic impact on small entities by eliminating the location requirement for the fall hazard warning entirely. However, this would reduce the effectiveness of the fall hazard warning label. The location for the fall hazard warning ''allows caregivers to notice the label while making eye contact with the infant, and potentially creates mental images of the consequence (''skull fracture'') of not complying with the instructions . . .'' Tab D, Staff NPR Briefing Package; Tab B, Staff Final Rule Briefing Package.

The Commission considered two additional alternatives discussed in the NPR that might minimize the economic impact on small entities: (1) Adopt ASTM F2167–17 with no modifications; and (2) allow a later effective date.

Section 104 of the CPSIA requires that the Commission promulgate a standard that is either substantially the same as the voluntary standard or more stringent. Therefore, adopting ASTM F2167–17 with no modifications is the least stringent rule allowed by law. This alternative would reduce the impact on all of the known small businesses supplying infant bouncers to the U.S. market. If it were adopted, it should eliminate any economic impact related to warning label changes, but firms would continue to be affected by third party testing requirements. However, adopting ASTM F2167–17 without modification would not adequately address the fall hazard scenario identified in the incident data and would reduce the effectiveness of the fall hazard warning label.

Finally, the Commission could reduce the final rule's impact on small businesses by setting a later effective date. A later effective date would reduce the economic impact on firms in two ways. Firms would be less likely to experience a lapse in production/importation, which could result if they are unable to comply and third party test within the required timeframe. Also, firms could spread costs over a longer time period, thereby reducing their annual costs, as well as the present value of their total costs. However, the Commission received no comments asserting that firms would not have sufficient time to comply with the

proposed 6 month effective date. Accordingly, the Commission declines to extend the effective date of the final rule.

G. Small Business Impacts of the Accreditation Requirements for Testing Laboratories

In accordance with section 14 of the CPSA, all children's products that are subject to a children's product safety rule must be tested by a CPSC-accepted third party conformity assessment body (*i.e.,* testing laboratory) for compliance with applicable children's product safety rules. Testing laboratories that want to conduct this testing must meet the NOR pertaining to third party conformity testing. NORs have been codified for existing rules at 16 CFR part 1112. Consequently, the Commission finalizes an amendment to 16 CFR part 1112 that establishes an NOR for those testing laboratories that want to test for compliance with the bouncers final rule. This section assesses the impact of the amendment on small laboratories.

A FRFA was conducted as part of the promulgation of the original 1112 rule (78 FR 15836, 15855–58) as required by the RFA. Briefly, the FRFA concluded that the accreditation requirements would not have a significant adverse impact on a substantial number of small laboratories because no requirements were imposed on laboratories that did not intend to provide third party testing services. The only laboratories that were expected to provide such services were those that anticipated receiving sufficient revenue from the mandated testing to justify accepting the requirements as a business decision.

Based on similar reasoning, amending the rule to include the NOR for the bouncer standard will not have a significant adverse impact on small laboratories. Moreover, based upon the number of laboratories in the United States that have applied for CPSC acceptance of the accreditation to test for conformance to other juvenile product standards, we expect that only a few laboratories will seek CPSC acceptance of their accreditation to test for conformance with the infant bouncer seat standard. Most of these laboratories will have already been accredited to test for conformance to other juvenile product standards, and the only costs to them would be the cost of adding the bouncer standard to their scope of accreditation, a cost that test laboratories have indicated is extremely low when they are already accredited for other section 104 rules. As a consequence, the Commission certifies that the NOR for the infant bouncer seat standard will not have a significant impact on a substantial number of small entities.

XI. Environmental Considerations

The Commission's regulations address whether the agency is required to prepare an environmental assessment or an environmental impact statement. Under these regulations, a rule that has ''little or no potential for affecting the human environment,'' is categorically exempt from this requirement. 16 CFR 1021.5(c)(1). The final rule for bouncer seats falls within the categorical exemption.

XII. Paperwork Reduction Act

The final rule for infant bouncer seats contains information collection requirements that are subject to public comment and review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The preamble to the proposed rule (80 FR at 63181–82) discussed the information collection burden of the proposed rule and specifically requested comments on the accuracy of our estimates. OMB has assigned control number 3041–0174 to this information collection. We did not receive any comment regarding the information collection burden of the proposal. However, the final rule makes modifications regarding the information collection burden because the number of estimated manufacturers subject to the information collection burden is now estimated at 23 manufacturers rather than the 22 manufacturers initially estimated in the proposed rule.

Accordingly, the estimated burden of this collection of information is modified as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN

16 CFR Section	Number of respondents	Frequency of responses	Total annual responses	Hours per response	Total burden hours
1229	23	4	92	1	92

Our estimate is based on the following:

Section 8.1 of ASTM F2167–17 requires that all infant bouncer seats and their retail packaging be permanently marked or labeled as follows: The manufacturer, distributor, or seller name, place of business (city, state, mailing address, including zip code), and telephone number; and a code mark or other means that identifies the date (month and year as a minimum) of manufacture.

CPSC is aware of 23 firms that supply bouncer seats in the U.S. market. For PRA purposes, we assume that all 23 firms use labels on their products and on their packaging already. All firms will need to make some modifications to their existing labels. We estimate that the time required to make these modifications is about 1 hour per model. Each of the 23 firms supplies an average of four different models of bouncer seats. Therefore, we estimate the burden hours associated with labels to be 92 hours annually (1 hour × 23 firms × 4 models per firm = 92 hours annually).

We estimate the hourly compensation for the time required to create and update labels is $33.58 (U.S. Bureau of Labor Statistics, ''Employer Costs for Employee Compensation,'' March 2017, Table 9, total compensation for all sales and office workers in goods-producing private industries: *http://www.bls.gov/ncs/*). Therefore, we estimate the annual cost to industry associated with the labeling requirements in the final rule to be approximately $3,089 ($33.58 per hour × 92 hours = $3,089.36). This collection of information does not require operating, maintenance, or capital costs.

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted the information collection requirements of this final rule to the OMB.

XIII. Preemption

Section 26(a) of the CPSA, 15 U.S.C. 2075(a), provides that when a consumer product safety standard is in effect and applies to a product, no state or political subdivision of a state may either establish or continue in effect a requirement dealing with the same risk of injury unless the state requirement is identical to the federal standard. Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to the Commission for an exemption from this preemption under

certain circumstances. Section 104(b) of the CPSIA refers to the rules to be issued under that section as ''consumer product safety rules.'' Therefore, the preemption provision of section 26(a) of the CPSA applies to this final rule issued under section 104.

XIV. Amendment to 16 CFR Part 1112 To Include NOR for Bouncer Seat Standard

The CPSA establishes certain requirements for product certification and testing. Products subject to a consumer product safety rule under the CPSA, or to a similar rule, ban, standard or regulation under any other act enforced by the Commission, must be certified as complying with all applicable CPSC-enforced requirements. 15 U.S.C. 2063(a). Certification of children's products subject to a children's product safety rule must be based on testing conducted by a CPSC-accepted third party conformity assessment body. *Id.* 2063(a)(2). The Commission must publish an NOR for the accreditation of third party conformity assessment bodies to assess conformity with a children's product safety rule to which a children's product is subject. *Id.* 2063(a)(3). The *Safety Standard for Infant Bouncer Seats,* to be codified at 16 CFR part 1229, is a children's product safety rule that requires the issuance of an NOR.

The Commission published a final rule, *Requirements Pertaining to Third-Party Conformity Assessment Bodies,* 78 FR 15836 (March 12, 2013), which is codified at 16 CFR part 1112 (referred to here as part 1112). Part 1112 became effective on June 10, 2013 and establishes requirements for accreditation of third-party conformity assessment bodies (or laboratories) to test for conformance with a children's product safety rule in accordance with section 14(a)(2) of the CPSA. Part 1112 also codifies a list of all of the NORs that the CPSC had published at the time part 1112 was issued. All NORs issued after the Commission published part 1112, such as the standard for bouncer seats, require the Commission to amend part 1112. Accordingly, the Commission is now amending part 1112 to include the standard for infant bouncer seats in the list of other children's product safety rules for which the CPSC has issued NORs.

Laboratories applying for acceptance as a CPSC-accepted third-party conformity assessment body to test to the new standard for infant bouncer seats would be required to meet the third-party conformity assessment body accreditation requirements in 16 CFR part 1112, *Requirements Pertaining to Third-Party Conformity Assessment Bodies.* When a laboratory meets the requirements as a CPSC-accepted third-party conformity assessment body, the laboratory can apply to the CPSC to have 16 CFR part 1229, *Safety Standard for Infant Bouncer Seats,* included in its scope of accreditation of CPSC safety rules listed for the laboratory on the CPSC Web site at: *www.cpsc.gov/labsearch.*

As required by the RFA, staff conducted a FRFA when the Commission issued the part 1112 rule (78 FR 15836, 15855–58). Briefly, the FRFA concluded that the accreditation requirements would not have a significant adverse impact on a substantial number of small test laboratories because no requirements were imposed on test laboratories that did not intend to provide third-party testing services. The only test laboratories that were expected to provide such services were those that anticipated receiving sufficient revenue from the mandated testing to justify accepting the requirements as a business decision. Moreover, a test laboratory would only choose to provide such services if it anticipated receiving revenues sufficient to cover the costs of the requirements.

Based on similar reasoning, amending 16 CFR part 1112 to include the NOR for the infant bouncer seats standard will not have a significant adverse impact on small test laboratories. Moreover, based upon the number of test laboratories in the United States that have applied for CPSC acceptance of accreditation to test for conformance to other mandatory juvenile product standards, we expect that only a few test laboratories will seek CPSC acceptance of their accreditation to test for conformance with the infant bouncer seats standard. Most of these test laboratories will have already been accredited to test for conformity to other mandatory juvenile product standards, and the only costs to them would be the cost of adding the infant bouncer seats standard to their scope of accreditation. For these reasons, the Commission certifies that the NOR amending 16 CFR part 1112 to include the infant bouncer seats standard will not have a significant impact on a substantial number of small entities.

List of Subjects

16 CFR Part 1112

Administrative practice and procedure, Audit, Consumer protection, Incorporation by reference, Reporting and recordkeeping requirements, Third party conformity assessment body.

16 CFR Part 1229

Bouncer seats, Chairs, Consumer protection, Imports, Incorporation by reference, Infants and children, Labeling, Law enforcement, Seats, and Toys.

For the reasons discussed in the preamble, the Commission amends title 16 of the Code of Federal Regulations as follows:

PART 1112—REQUIREMENTS PERTAINING TO THIRD PARTY CONFORMITY ASSESSMENT BODIES

■ 1. The authority citation for part 1112 continues to read as follows:

Authority: 15 U.S.C. 2063; Pub. L. 110–314, section 3, 122 Stat. 3016, 3017 (2008).

■ 2. Amend § 1112.15 by adding paragraph (b)(42) to read as follows:

§ 1112.15 When can a third party conformity assessment body apply for CPSC acceptance for a particular CPSC rule and/or test method?

* * * * *

(b) * * *

(42) 16 CFR part 1229, Safety Standard for Infant Bouncer Seats.

* * * * *

■ 3. Add part 1229 to read as follows:

PART 1229—SAFETY STANDARD FOR INFANT BOUNCER SEATS

Sec.

Authority: Sec. 104, Pub. L. 110–314, 122 Stat. 3016 (15 U.S.C. 2056a).

§ 1229.1 Scope.

This part establishes a consumer product safety standard for infant bouncer seats.

§ 1229.2 Requirements for infant bouncer seats.

(a) Except as provided in paragraph (b) of this section, each infant bouncer seat must comply with all applicable provisions of ASTM F2167–17, Standard Consumer Safety Specification for Infant Bouncer Seats, approved on June 1, 2017. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy from ASTM International, 100 Bar Harbor Drive, P.O. Box 0700, West Conshohocken, PA 19428; *http://www.astm.org/cpsc.htm.* You may inspect a copy at the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301–504–7923, or at

the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.*

(b) Comply with ASTM F2167–17 with the following additions or exclusions:

(1) Instead of complying with section 7.11.3.1 of ASTM F2167–17, comply with the following:

(i) 7.11.3.1 *Visibility With CAMI Dummy Restrained in Seat*—While standing in front of the product with the Newborn CAMI dummy installed, verify that the required warnings are visible and placed above an imaginary horizontal line that crosses through the junctions of under arm and side of the torso armpits on both left and right and not obscured by any part of the dummy (as shown in paragraph (b)(1)(ii), ''Fig. 10'').

(ii) *Fig. 10: CAMI Dummy Restrained in Seat; Allowable area for warning label placement starts from the dotted line that crosses the junctions of underarm and both sides of the torso.*

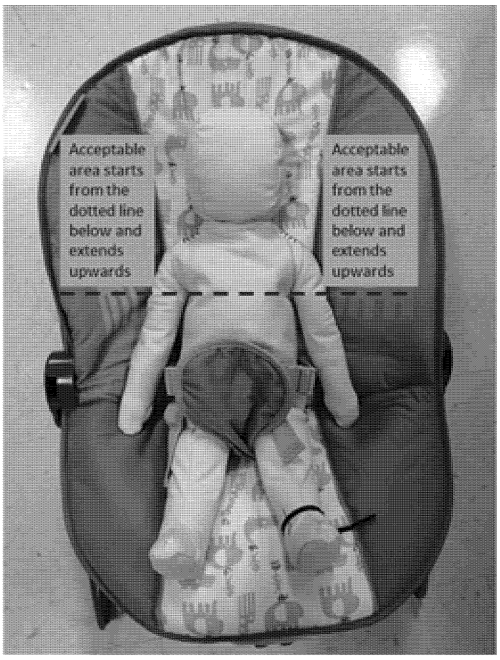

Fig 10. Allowable area for warning label placement starts from the dotted line that crosses the junctions of underarm and both sides of the torso.

(2) In section 8.5.1.1 of ASTM F2167–17, replace the warning statement ''ALWAYS use restraints. Adjust to fit snugly'' with ''ALWAYS use restraints and adjust to fit snugly, even if baby falls asleep.''

(3) In section 8.5.2.1 of ASTM F2167–17, replace the warning statement ''ALWAYS use restraints. Adjust to fit snugly'' with ''ALWAYS use restraints and adjust to fit snugly, even if baby falls asleep.''

(4) In section 8.5.3 of ASTM F2167–17, replace the reference to ''Figs. 10 and 11'' with ''Figs. 11 and 12.''

(5) In section 9.2.1 of ASTM F2167–17:

(i) Replace the reference to ''Fig. 12'' with ''Fig. 13.''

(ii) Replace Fig. 10 with paragraph (b)(5)(iii), ''Fig. 11''.

(iii) *Fig. 11: Fall Hazard Warning.*

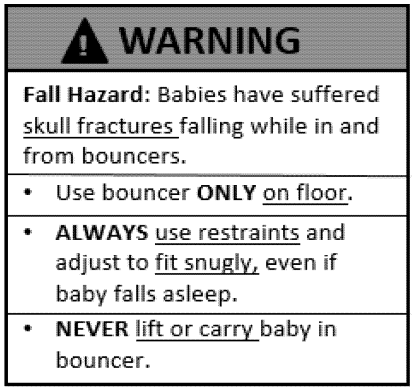

Fig. 11 Fall Hazard Warning

(iv) Replace Fig. 11 with paragraph (b)(5)(v), ''Fig. 12''.

(v) *Fig. 12: Suffocation Hazard Warning.*

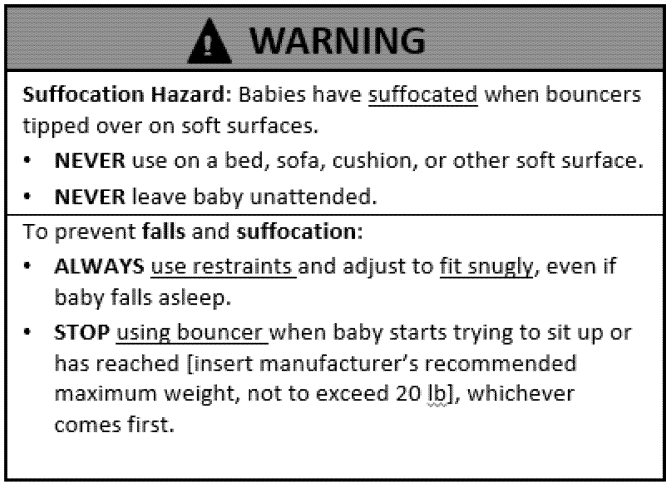

Fig. 12 Suffocation Hazard Warning

(vi) Replace Fig. 12 with paragraph (b)(5)(vii), ''Fig. 13''.

(vii) *Fig. 13: Instruction Warning Statements.*

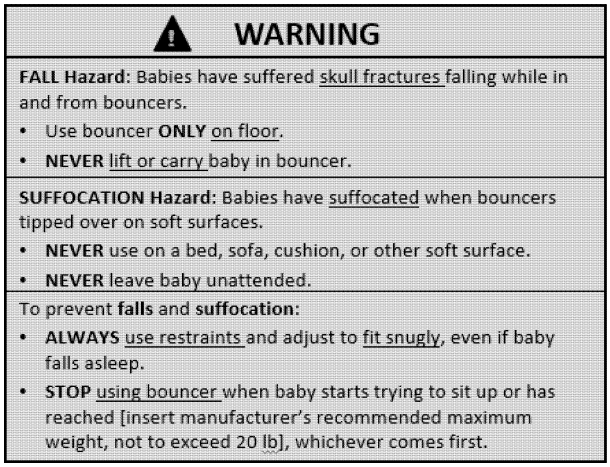

Fig. 13 Instruction Warning Statements

(6) In section 9.2.2 of ASTM F2167–17, replace the reference to ''Fig. 12'' with ''Fig. 13.''

Alberta E. Mills,

Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 2017–19255 Filed 9–15–17; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510, 520, 522, 524, and 558

[Docket No. FDA–2017–N–0002]

New Animal Drugs; Approval of New Animal Drug Applications; Change of Sponsor's Address

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendments.

SUMMARY: The Food and Drug Administration (FDA or we) is amending the animal drug regulations to reflect application-related actions for a new animal drug application (NADA) and abbreviated new animal drug applications (ANADAs) during March and April 2017. FDA is also informing the public of the availability of summaries of the basis of approval and of environmental review documents, where applicable. The animal drug regulations are also being amended to reflect a change of a sponsor's address and to make technical amendments to improve the accuracy of the regulations.

DATES: This rule is effective September 18, 2017.

FOR FURTHER INFORMATION CONTACT: George K. Haibel, Center for Veterinary Medicine (HFV–6), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–402–5689, *george.haibel@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Approval Actions

FDA is amending the animal drug regulations to reflect approval actions for a NADA and ANADAs during March and April 2017, as listed in table 1. In addition, FDA is informing the public of the availability, where applicable, of documentation of environmental review required under the National Environmental Policy Act (NEPA) and, for actions requiring review of safety or effectiveness data, summaries of the basis of approval (FOI Summaries) under the Freedom of Information Act (FOIA). These public documents may be seen in the Dockets Management Staff Office (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday. Persons with access to the internet may obtain these documents at the CVM FOIA Electronic Reading Room: *https://www.fda.gov/AboutFDA/CentersOffices/OfficeofFoods/CVM/CVMFOIAElectronicReadingRoom/default.htm.* Marketing exclusivity and patent information may be accessed in FDA's publication, Approved Animal Drug Products Online (Green Book) at: *https://www.fda.gov/AnimalVeterinary/Products/ApprovedAnimalDrugProducts/default.htm.*

TABLE 1—ORIGINAL AND SUPPLEMENTAL NADAS AND ANADAS APPROVED DURING MARCH AND APRIL 2017

Approval date	File No.	Sponsor	Product name	Species	Effect of the action	Public documents
April 24, 2017 ...	141–269	Intervet, Inc., 2 Giralda Farms, Madison, NJ 07940.	REVALOR–XH (trenbolone acetate and estradiol extended-release implant).	Cattle	Supplemental approval of a new implant for increased rate of weight gain and improved feed efficiency for up to 200 days after implantation in beef heifers fed in confinement for slaughter.	FOI Summary, EA/FONSI.[1]
April 19, 2017 ...	200–593	Accord Healthcare, Inc., 1009 Slater Rd., Suite 210–B, Durham, NC 27703.	Carprofen Injection.	Dogs	Original approval as a generic copy of NADA 141–199.	FOI Summary.
April 28, 2017 ...	200–595	Norbrook Laboratories, Ltd., Station Works, Newry BT35 6JP, Northern Ireland.	CARPRIEVE (carprofen) Chewable Tablets.	Dogs	Original approval as a generic copy of NADA 141–111.	FOI Summary.

[1] The Agency has carefully considered an environmental assessment (EA) of the potential environmental impact of this action and has made a finding of no significant impact (FONSI).

II. Technical Amendments

Pharmgate LLC, 1015 Ashes Dr., suite 102, Wilmington, NC 28405, has informed FDA that it has changed its address to 1800 Sir Tyler Dr., Wilmington, NC 28405. Accordingly, we are amending § 510.600(c) to reflect this change.

We are making several technical amendments in part 558, which was amended on December 27, 2016 (81 FR 94991), and February 24, 2017 (82 FR 11510), as part of the FDA Center for Veterinary Medicine's (CVM's) Judicious Use Initiative. We are also making several technical amendments to the regulations for dosage form drugs. These actions are being taken to improve the accuracy of the regulations.

III. Legal Authority

This final rule is issued under section 512(i) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360b(i)), which requires **Federal Register** publication of ''notice[s] . . . effective as a regulation,'' of the conditions of use of approved new animal drugs. This rule sets forth technical amendments to the regulations to codify recent actions on approved new animal drug applications and corrections to improve the accuracy of the regulations, and as such does not impose any burden on regulated entities.

Although denominated a rule pursuant to the FD&C Act, this document does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a ''rule of particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808. Likewise, this is not a rule subject to Executive Order 12866, which defines a rule as ''an agency statement of general applicability and future effect, which the agency intends to have the force and effect of law, that is designed to implement, interpret, or prescribe law or policy or to describe the procedure or practice requirements of an agency.''

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Parts 520, 522, and 524

Animal drugs.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510, 520, 522, 524, and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

■ 1. The authority citation for part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

■ 2. In § 510.600, in the table in paragraph (c)(1), revise the entry for ''Pharmgate LLC''; and in the table in paragraph (c)(2), revise the entry for ''069254'' to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Pharmgate LLC, 1800 Sir Tyler Dr., Wilmington, NC 28405	069254
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
069254	Pharmgate LLC, 1800 Sir Tyler Dr., Wilmington, NC 28405
* * * * *	

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 3. The authority citation for part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 520.88g [Amended]

■ 4. In § 520.88g, in paragraphs (c)(1)(ii) and (c)(2)(ii), in the first sentence, remove ''nonbeta-lactamase'' and in its place add ''non-beta-lactamase''.

■ 5. In § 520.304, remove paragraph (b)(3) and revise paragraphs (b)(1) and (2) to read as follows:

§ 520.304 Carprofen.

* * * * *

(b) * * *

(1) Nos. 054771, 026637, 055529, and 062250 for use of products described in paragraph (a) as in paragraph (d) of this section.

(2) No. 000859 for use of product described in paragraph (a)(1) as in paragraph (d) of this section.

* * * * *

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

■ 6. The authority citation for part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 7. In § 522.304, revise paragraph (b) to read as follows:

§ 522.304 Carprofen.

* * * * *

(b) *Sponsors.* See Nos. 016729, 026637, 054771, and 055529 in § 510.600(c) of this chapter.

* * * * *

■ 8. In § 522.970, revise paragraph (b)(1); remove paragraphs (b)(3), (e)(2)(ii)(B), and (e)(2)(iii); and add two sentences after the italic heading of paragraph (e)(2)(ii), to read as follows:

§ 522.970 Flunixin.

* * * * *

(b) * * *

(1) See Nos. 000061, 000859, 055529, 057561, and 061623 for use as in paragraph (e) of this section.

* * * * *

(e) * * *

(2) * * *

(ii) *Limitations.* Approved only for intravenous administration in cattle. Intramuscular administration has resulted in violative residues in the edible tissues of cattle sent to slaughter. * * *

* * * * *

■ 9. In § 522.1002, revise paragraph (b)(1) to read as follows:

§ 522.1002 Follicle stimulating hormone.

* * * * *

(b)(1) *Specifications*—(i) *Single pack.* Each package contains 2 vials. One vial contains 700 international units (IU) porcine-pituitary-derived follicle stimulating hormone (FSH) equivalent to 400 milligrams NIH–FSH–P1, as a dry powder. The other vial contains 20 milliliters (mL) of bacteriostatic sodium chloride injection. When constituted, each milliliter of solution contains 35 IU FSH.

(ii) *Dual pack.* Each package contains 2 vials. Each vial contains 700 international units (IU) porcine-pituitary-derived FSH equivalent to 400 milligrams NIH–FSH–P1, as a dry powder. Constitute with 20 mL bacteriostatic sodium chloride injection, using strict aseptic technique. When constituted, each milliliter of solution contains 35 IU FSH.

* * * * *

■ 10. In § 522.1660a, revise the first sentence of paragraph (e)(1)(ii) to read as follows:

§ 522.1660a Oxytetracycline solution, 200 milligrams/milliliter.

* * * * *

(e) * * *

(1) * * *

(ii) *Limitations.* Exceeding the highest recommended level of drug per pound of bodyweight per day, administering more than the recommended number of treatments, and/or exceeding 10 mL intramuscularly or subcutaneously per injection site in adult beef and dairy cattle may result in antibiotic residues beyond the withdrawal time. * * *

* * * * *

■ 11. In § 522.2477, revise paragraph (b)(2) and the first sentence in paragraphs (d)(1)(iii), (d)(2)(iii), (d)(3)(iii), and (d)(4)(iii); and add paragraph (d)(5) to read as follows:

§ 522.2477 Trenbolone acetate and estradiol.

* * * * *

(b) * * *

(2) No. 000061 for use as in paragraphs (d)(1)(i)(A), (d)(1)(i)(C), (d)(1)(i)(D), (d)(1)(i)(G), (d)(1)(ii), (d)(1)(iii), (d)(2)(i)(A), (d)(2)(i)(C), (d)(2)(i)(D), (d)(2)(ii), (d)(2)(iii), (d)(3)(i)(A), (d)(3)(ii), (d)(3)(iii), (d)(4), and (d)(5) of this section.

* * * * *

(d) * * *

(1) * * *

(iii) *Limitations.* Administer implant subcutaneously in the ear only. * * *

(2) * * *

(iii) *Limitations.* Administer implant subcutaneously in the ear only. * * *

(3) * * *

(iii) *Limitations.* Administer implant subcutaneously in the ear only. * * *

(4) * * *

(iii) *Limitations.* Administer implant subcutaneously in the ear only. * * *

(5) *Beef heifers fed in confinement for slaughter*—(i) *Amount.* Each extended-release implant contains 200 mg trenbolone acetate and 20 mg estradiol (one implant consisting of 6 coated and 4 uncoated pellets, each pellet containing 20 mg trenbolone acetate and 2 mg estradiol).

(ii) *Indications for use.* For increased rate of weight gain and improved feed efficiency for up to 200 days after implantation.

(iii) *Limitations.* Administer implant subcutaneously in the ear only. Do not use in lactating dairy cows or in animals intended for subsequent breeding. Use in these cattle may cause drug residues in milk and/or in calves born to these cows. Do not use in calves to be processed for veal. A withdrawal period has not been established for this product in pre-ruminating calves. Effectiveness

and animal safety in veal calves have not been established. Not approved for repeated implantation (reimplantation) with this or any other cattle ear implant during the production phase(s) identified on labeling (beef heifers fed in confinement for slaughter) unless otherwise indicated on labeling because safety and effectiveness have not been evaluated.

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

■ 12. The authority citation for part 524 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 13. In § 524.998, add paragraph (c)(2) to read as follows:

§ 524.998 Fluralaner.

* * * * *

(c) * * *

(2) *Cats*—(i) *Amount.* Administer topically as a single dose every 12 weeks according to the label dosage schedule to provide a minimum dose of 18.2 mg/lb (40 mg/kg) body weight. May be administered every 8 weeks in case of potential exposure to *D. variabilis* ticks.

(ii) *Indications for use.* Kills adult fleas; for the treatment and prevention of flea infestations (*C. felis*) and the treatment and control of *I. scapularis* (black-legged tick) infestations for 12 weeks in cats and kittens 6 months of age and older, and weighing 2.6 lb or greater; for the treatment and control of *D. variabilis* (American dog tick) infestations for 8 weeks in cats and kittens 6 months of age and older, and weighing 2.6 lb or greater.

(iii) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

■ 14. The authority citation for part 558 continues to read as follows:

Authority: 21 U.S.C. 354, 360b, 360ccc, 360ccc–1, 371.

■ 15. In § 558.4, in paragraph (d), in the ''Category II'' table, revise the row entries for ''Neomycin'' and ''Oxytetracycline'' to read as follows:

§ 558.4 Requirement of a medicated feed mill license.

* * * * *

(d) * * *

CATEGORY II

Drug	Assay limits percent Type A [1]	Type B maximum (100x)	Assay limits percent Type B/C [2]
* * *	*	* *	*
Neomycin	80–120	20 g/lb (4.4%)	70–125
Oxytetracycline	80–120	20 g/lb (4.4%)	65–135
* * *	*	* *	*

[1] Percent of labeled amount.

[2] Values given represent ranges for either Type B or Type C medicated feeds. For those drugs that have two range limit, the first set is for a Type B medicated feed and the second set is for a Type C medicated feed. These values (ranges) have been assigned in order to provide for the possibility of dilution of a Type B medicated feed with lower assay limits to make a Type C medicated feed.

* * * * *

§ 558.128 [Amended]

■ 16. In § 558.128, in paragraphs (e)(4)(iii) and (xii) and (e)(5)(ii) and (iii), in the ''Sponsor'' column, add ''069254'' after ''054771''; in paragraphs (e)(4)(xi) and (xiii), in the ''Limitations'' column, remove the third sentence ''Withdraw 24 hours prior to slaughter.''; and in paragraph (e)(6)(v), remove ''*Sponsor.* See No. 054771'' and in its place add ''*Sponsors.* See Nos. 054771 and 069254''.

§ 558.625 [Amended]

■ 17. Amend § 558.625 as follows:

■ a. In paragraphs (e)(1)(vii) and (ix), in the ''Tylosin grams/ton'' column, remove ''40 to 100'' and in its place add ''40 or 100'';

■ b. In paragraph (e)(2)(ii), in the ''Limitations'' column, add ''See §§ 558.311(d) and 558.342(d) in this chapter.'' after the last sentence;

■ c. In paragraph (e)(2)(iii), in the ''Limitations '' column, add ''See § 558.342(d) in this chapter.'' after the last sentence;

■ d. In paragraph (e)(2)(vi), in the ''Limitations'' column, remove ''See § 558.355(d) in this chapter'' and in its place add ''See §§ 558.311(d) and 558.355(d) in this chapter.'';

■ e. In paragraph (e)(2)(vii), in the ''Limitations'' column, remove ''See § 558.355(d) in this chapter'' and in its place add ''See §§ 558.342(d) and 558.355(d) in this chapter.'';

■ f. In paragraphs (e)(2)(viii), (ix), and (x), in the ''Limitations'' column, remove ''See § 558.355(d) in this chapter'' and in its place add ''See §§ 558.355(d) and 558.500(d) in this chapter.''

■ g. In paragraph (e)(2)(xi) in the ''Limitations'' column, remove ''See § 558.355(d) in this chapter.'' and in its place add ''See §§ 558.342(d), 558.355(d), and 558.500(d) in this chapter.'';

■ h. In paragraphs (e)(2)(xii) and (xiii), in the ''Limitations'' column, remove ''See § 558.355(d) in this chapter.'' and in its place add ''See §§ 558.355(d) and 558.665(d) in this chapter.''; and

■ i. In paragraphs (e)(2)(xiv) and (xv), in the ''Limitations'' column, remove ''See § 558.355(d) in this chapter.'' and in its place add ''See §§ 558.342(d), 558.355(d) and 558.665(d) in this chapter.''

Dated: September 7, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–19602 Filed 9–15–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2017–0864]

RIN 1625–AA08

Regattas and Marine Parades; Great Lakes Annual Marine Events

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce special local regulations for the Cannonade cannon fire event on Lake St. Clair on October 21, 2017 to provide for the safety of life on navigable waterways during this event. During the enforcement periods, the Coast Guard will enforce restrictions upon, and control movement of, vessels in a specified area immediately prior to, during, and after this event.

DATES: The regulations in 33 CFR 100.917 will be enforced from 1:30 p.m. to 4:30 p.m. on October 21, 2017.

FOR FURTHER INFORMATION CONTACT: If you have questions on this document, call or email Tracy Girard, Prevention Department, telephone (313)568–9564, email *Tracy.M.Girard@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the following special local regulations listed in 33 CFR part 100, Safety of Life on Navigable Waters, on the following dates and times:

(1) *§ 100.917 The Old Club Cannonade, Harsens Island, MI.* This special local regulation will be enforced from 1:30 p.m. to 4:30 p.m. on October 21, 2017.

Special Local Regulations

In accordance with § 100.901, entry into, transiting, or anchoring within these regulated areas is prohibited unless authorized by the Coast Guard patrol commander (PATCOM). The PATCOM may restrict vessel operation within the regulated area to vessels having particular operating characteristics.

The PATCOM may direct the anchoring, mooring, or movement of any vessel within this regulated area. A succession of sharp, short signals by whistle or horn from vessels patrolling the area under the direction of the PATCOM shall serve as a signal to stop. Vessels so signaled shall stop and shall comply with the orders of the PATCOM. Failure to do so may result in expulsion from the area, a Notice of Violation for failure to comply, or both.

If it is deemed necessary for the protection of life and property, the PATCOM may terminate the marine event or the operation of any vessel within the regulated area.

In accordance with the general regulations in § 100.35 of this part, the Coast Guard will patrol the regatta area under the direction of a designated Coast Guard Patrol Commander. The PATCOM may be contacted on Channel 16 (156.8 MHz) by the call sign ''Coast Guard Patrol Commander.''

The ''on-scene representative'' of the Captain of the Port Detroit is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port Detroit to act on his behalf. The on-scene representative of the Captain of the Port Detroit will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port Detroit or his designated on scene representative may be contacted via VHF Channel 16.

The rules in this section shall not apply to vessels participating in the event or to government vessels patrolling the regulated area in the performance of their assigned duties.

This document is issued under authority of 33 CFR 100.35 and 5 U.S.C. 552(a). If the Captain of the Port determines that this special local regulation need not be enforced for the full duration stated in this document, he may suspend such enforcement and notify the public of the suspension via a Broadcast Notice to Mariners.

Dated: September 11, 2017.

Jeffrey W. Novak,

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

[FR Doc. 2017–19741 Filed 9–15–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–0799]

Drawbridge Operation Regulation; Sacramento River, Sacramento, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Tower Drawbridge across the Sacramento River, mile 59.0, at Sacramento, CA. The deviation is necessary to allow the community to participate in the Farm-to-Fork Dinner event. This deviation allows the bridge to remain in the closed-to-navigation position during the deviation period.

DATES: This deviation is effective from 1 p.m. through 10 p.m. on September 24, 2017.

ADDRESSES: The docket for this deviation, USCG–2017–0799, is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation.

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

SUPPLEMENTARY INFORMATION: The California Department of Transportation has requested a temporary change to the operation of the Tower Drawbridge over the Sacramento River, mile 59.0, at Sacramento, CA. The drawbridge navigation span provides a vertical clearance of 30 feet above Mean High Water in the closed-to-navigation position. The draw operates as required by 33 CFR 117.189(a). Navigation on the waterway is commercial and recreational.

The drawspan will be secured in the closed-to-navigation position from 1 p.m. through 10 p.m. on September 24, 2017, to allow the community to participate in the Farm-to-Fork Dinner event. This temporary deviation has been coordinated with the waterway users. No objections to the proposed temporary deviation were raised.

Vessels able to pass through the bridge in the closed position may do so at anytime. In the event of an emergency the draw can open on signal if at least two hours notice is given to the bridge operator. There are no immediate alternate routes for vessels to pass. The Coast Guard will also inform the users of the waterway through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: September 13, 2017.

Carl T. Hausner,

District Bridge Chief, Eleventh Coast Guard District.

[FR Doc. 2017–19754 Filed 9–15–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2017–0832]

Safety Zone; Recurring Annual Event Held in Coast Guard Sector Boston Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce one safety zone within the Captain of the Port Boston zone on September 17, 2017. This action is necessary to ensure the safety of vessels, spectators, and participants from hazards associated with swim event. During the enforcement period, no person or vessel, except for the safety vessels assisting with the events, may enter the safety zones without permission of the Captain of the Port (COTP) or their designated on-scene representative.

DATES: The regulation in 33 CFR 165.118 will be enforced for the safety zone identified in the **SUPPLEMENTARY INFORMATION** section below on September 17, 2017, from 8:50 a.m. to 9:50 a.m.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Mark Cutter, Sector Boston Waterways Management Division, U.S. Coast Guard; telephone 617–223–4000, email *Mark.E.Cutter@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone listed in Table 1 from 33 CFR 165.118 on the specified dates and times specified:

TABLE 1 FROM 33 CFR 165.118

Name	Location	Date	Time
9.7 Boston Harbor Sharkfest Swim.	All waters of Boston Inner Harbor, Piers Park East Boston to Fan Pier, South Boston, MA within the following points (NAD 83): 42°21.7′ N, 071°02.1′ W; 42°21.8′ N, 071°02.4′ W; 42°21.3′ N, 071°02.9′ W; 42°21.3′ N, 071°02.3′ W.	September 17, 2017	8:50 a.m. to 9:50 a.m.

This notice of enforcement is issued under authority of 33 CFR 165.118 and 5 U.S.C. 552(a). During the enforcement period, persons and vessels are prohibited from entering into, transiting through, mooring, or anchoring within the safety zone unless they receive permission from the COTP or designated representative. In addition to this notice of enforcement in the **Federal Register**, the Coast Guard plans to provide mariners with advanced notification of this enforcement period via the Local Notice to Mariners.

Dated: September 12, 2017.

B.W. Kelly,

Commander, U.S. Coast Guard, Acting, Captain of the Port Boston.

[FR Doc. 2017–19752 Filed 9–15–17; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2016–0208; FRL–9967–84–Region 4]

Air Plan Approval; Alabama: Infrastructure Requirements for the 2012 $PM_{2.5}$ National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve portions of the State Implementation Plan (SIP) submission, submitted by the State of Alabama, through the Alabama Department of Environmental Management (ADEM), for inclusion into the Alabama SIP, on December 9, 2015, to demonstrate that the State meets the infrastructure requirements of the Clean Air Act (CAA or Act) for the 2012 annual fine particulate matter ($PM_{2.5}$) national ambient air quality standard (NAAQS). The CAA requires that each state adopt and submit a SIP for the implementation, maintenance and enforcement of each NAAQS promulgated by EPA, which is commonly referred to as an ''infrastructure SIP submission.'' ADEM certified that the Alabama SIP contains provisions that ensure the 2012 Annual $PM_{2.5}$ NAAQS is implemented, enforced, and maintained in Alabama. EPA has determined that portions of Alabama's SIP satisfy certain required infrastructure elements for the 2012 Annual $PM_{2.5}$ NAAQS.

DATES: This rule will be effective October 18, 2017.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2016–0208. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Tiereny Bell, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Ms. Bell can be reached via electronic mail at *bell.tiereny@epa.gov* or via telephone at (404) 562–9088.

SUPPLEMENTARY INFORMATION:

I. Background and Overview

On December 14, 2012, EPA promulgated a revised primary annual $PM_{2.5}$ NAAQS. The standard was strengthened from 15.0 micrograms per cubic meter ($\mu g/m^3$) to 12.0 $\mu g/m^3$. *See* 78 FR 3086 (January 15, 2013). Pursuant to section 110(a)(1) of the CAA, states are required to submit SIPs meeting the applicable requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS or within such shorter period

as EPA may prescribe. Section 110(a)(2) requires states to address basic SIP elements such as requirements for monitoring, basic program requirements and legal authority that are designed to assure attainment and maintenance of the NAAQS. States were required to submit such SIPs for the 2012 Annual $PM_{2.5}$ NAAQS to EPA no later than December 9, 2015.[1]

In a proposed rulemaking published on June 29, 2017 (82 FR 29448), EPA proposed to approve portions of Alabama's December 9, 2015, SIP submission for the 2012 Annual $PM_{2.5}$ NAAQS. The details of Alabama's submission and the rationale for EPA's actions for this final rule are explained in the June 29, 2017, proposed rulemaking. Comments on the proposed rulemaking were due on or before July 31, 2017. EPA received no adverse comments.

II. Final Action

EPA is taking final action to approve Alabama's infrastructure submission submitted on December 9, 2015, for the 2012 Annual $PM_{2.5}$ NAAQS for the infrastructure SIP requirements, with the exception of the interstate transport requirements of section 110(a)(2)(D)(i)(I) (prongs 1 and 2) and visibility of section 110(a)(2)(D)(i)(II) (prong 4), and the state board requirements of section 110(a)(2)(E)(ii). EPA notes that the Agency is not approving any specific rule, but rather approving that Alabama's already approved SIP meets certain CAA requirements. With respect to the interstate transport provisions pertaining to contribution to nonattainment or interference with maintenance in other states of section 110(a)(2)(D)(i)(I) (prongs 1 and 2) and visibility of section 110(a)(2)(D)(i)(II) (prong 4), and the state board requirements of section 110(a)(2)(E)(ii). EPA will consider these requirements in relation to Alabama's 2012 Annual $PM_{2.5}$ NAAQS infrastructure submission in a separate rulemaking. EPA is taking final action to approve all other elements of Alabama's infrastructure SIP submissions for the 2012 Annual $PM_{2.5}$ NAAQS because the submission is consistent with section 110 of the CAA.

III. Statutory and Executive Order Reviews

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

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

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 17, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* sec

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 5, 2017.

Onis ''Trey'' Glenn III,

Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart B—Alabama

■ 2. In § 52.50, the table in paragraph (e) is amended by adding the entry ''110(a)(1) and (2) Infrastructure Requirements for the 2012 Annual $PM_{2.5}$

[1] In these infrastructure SIP submissions States generally certify evidence of compliance with sections 110(a)(1) and (2) of the CAA through a combination of state regulations and statutes, some of which have been incorporated into the federally-approved SIP. In addition, certain federally-approved, non-SIP regulations may also be appropriate for demonstrating compliance with sections 110(a)(1) and (2). Throughout this rulemaking, unless otherwise indicated, the term ''ADEM Administrative Code (Admin. Code r).'' indicates that the cited regulation has either been approved, or submitted for approval into Alabama's federally-approved SIP. The term ''Alabama Code'' (Ala. Code) indicates cited Alabama state statutes, which are not a part of the SIP unless otherwise indicated.

NAAQS'' at the end of the table to read as follows:

§ 52.50 Identification of plan.

* * * * *

(e) * * *

EPA APPROVED ALABAMA NON-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
* *	*	*	* *	* *
110(a)(1) and (2) Infrastructure Requirements for the 2012 Annual $PM_{2.5}$ NAAQS.	Alabama	12/9/2015	9/18/2017, [insert **Federal Register** citation].	With the exception of section 110(a)(2)(D)(i)(I) and (II) (prongs 1, 2 and 4) and the state board requirements of section 110(a)(2)(E)(ii).

[FR Doc. 2017–19699 Filed 9–15–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2017–0014; FRL–9967–83–Region 4]

Air Plan Approval; KY; Removal of Stage II Gasoline Vapor Recovery Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving changes to the Kentucky State Implementation Plan (SIP) submitted by the Commonwealth of Kentucky, through the Kentucky Energy and Environmental Cabinet, on November 10, 2016, for the Louisville Metro Air Pollution Control District (District). This SIP revision removes Stage II vapor control requirements for new and upgraded gasoline dispensing facilities, and allows for the decommissioning of existing Stage II equipment in Jefferson County, Kentucky. EPA determined that Kentucky's November 10, 2016, SIP revision is approvable because it is consistent with the Clean Air Act (CAA or Act).

DATES: This rule will be effective October 18, 2017.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2017–0014. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Kelly Sheckler, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Ms. Sheckler's telephone number is (404) 562–9222. She can also be reached via electronic mail at *sheckler.kelly@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On March 4, 1993, the Commonwealth of Kentucky submitted a SIP revision to address the Stage II requirements [1] for Jefferson County, Kentucky.[2] EPA approved that SIP revision, which contained changes to the Jefferson County portion of Kentucky SIP at Regulation 6.40, *Standards of Performance for Gasoline Transfer to Motor Vehicle (Stage II Vapor Recovery and Control Systems),* in a document published on March 6, 1996 (61 FR 8873). On November 10, 2016, the Commonwealth of Kentucky submitted a SIP revision for Regulation 6.40, *Standards of Performance for Gasoline Transfer to Motor Vehicle (*Stage *II Vapor Recovery and Control Systems).* In this action, EPA is approving Louisville's request to revise the Stage II requirements in the Louisville Kentucky Area. Specifically, it seeks to remove the Stage II requirements in Jefferson County, Kentucky, and to add requirements for decommissioning the stations. EPA published a proposed rulemaking on July 3, 2017, to approve this SIP revision. The details of Kentucky's submittal and the rationale for EPA's action are explained in the proposed rulemaking. *See* 82 FR 30809. The comment period for this proposed rulemaking closed on August 2, 2017. EPA did not receive any comments, adverse or otherwise, during the public comment period.

II. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Jefferson County portion of Kentucky, regulation 6.40, *Standards of Performance for Gasoline Transfer to Motor Vehicle (*Stage *II Vapor Recovery and Control Systems),* effective November 10, 2016, which removes Stage II vapor control requirements for new and upgraded gasoline dispensing facilities in Jefferson County, Kentucky. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and/or at the EPA Region 4 Office

[1] Stage II is a system designed to capture displaced vapors that emerge from inside a vehicle's fuel tank, when gasoline is dispensed into the tank. There are two basic types of Stage II systems, the balance type and the vacuum assist type.

[2] On November 6, 1991, EPA designated and classified Jefferson County in Kentucky as a moderate nonattainment area for the 1-hour ozone NAAQS. *See* 56 FR 56694. The ''moderate'' classification triggered various statutory requirements for the Area, including the requirement pursuant to section 182(b)(3) of the CAA to require all owners and operators of gasoline dispensing systems to install and operate Stage II. EPA redesignated the Louisville portion of the Area to attainment for the 1-hour ozone NAAQS, effective July 31, 2002. *See* 67 FR 49600.

(please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally-enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.[3]

III. Final Action

EPA is taking final action to approve the November 10, 2016, revision to the Jefferson County portion of the Kentucky SIP, Regulation 6.40, *Standards of Performance for Gasoline Transfer to Motor Vehicle (Stage II Vapor Recovery and Control Systems),* submitted by the Commonwealth of Kentucky. This action removes Stage II vapor control requirements for new and upgraded gasoline dispensing facilities, and allows for the decommissioning of existing Stage II equipment. EPA has determined that Kentucky's November 10, 2016, SIP revision related to the Louisville's Stage II rules is consistent with the CAA and EPA's regulations and guidance related to removal of Stage II requirements from the SIP and that these changes will not interfere with any applicable requirement concerning attainment or any other applicable requirement of the CAA, and therefore satisfy section 110(l).

IV. Statutory and Executive Order Reviews

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

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

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 17, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 7, 2017.

Onis ''Trey'' Glenn, III,

Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart S—Kentucky

■ 2. Section 52.920(c), Table 2, is amended under ''Reg 6—Standards of Performance for Existing Affected Facilities'' by revising the entry for ''6.40'' to read as follows:

§ 52.920 Identification of plan.

* * * * *

(c) * * *

[3] 62 FR 27968 (May 22, 1997).

TABLE 2—EPA APPROVED JEFFERSON COUNTY REGULATIONS FOR KENTUCKY

Reg	Title/subject	EPA approval date	Federal Register notice	District effective date	Explanation
*	*	*	*	*	*
Reg 6—Standards of Performance for Existing Affected Facilities					
*	*	*	*	*	*
6.40	Standards of Performance for Gasoline Transfer to Motor Vehicles (Stage II Vapor Recovery and Control System).	9/18/2017	[Insert citation of publication].	11/10/2016	
*	*	*	*	*	*

* * * * *

[FR Doc. 2017–19697 Filed 9–15–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[OAR–2004–0091; FRL–9962–56–Region 9]

Outer Continental Shelf Air Regulations; Consistency Update for California

AGENCY: Environmental Protection Agency (EPA)

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing the updates of the Outer Continental Shelf (''OCS'') Air Regulations proposed in the **Federal Register** on June 17, 2016 and December 12, 2016. Requirements applying to OCS sources located within 25 miles of States' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area (''COA''), as mandated by section 328(a)(1) of the Clean Air Act, as amended in 1990 (''the Act''). The portions of the OCS air regulations that are being updated pertain to the requirements for OCS sources for which the Santa Barbara County Air Pollution Control District (''Santa Barbara County APCD'') and Ventura County Air Pollution Control District (''Ventura County APCD'') are the designated COA. The intended effect of approving the OCS requirements for the Santa Barbara County APCD and Ventura County APCD is to regulate emissions from OCS sources in accordance with the requirements onshore. The changes to the existing requirements discussed in this document will be incorporated by reference into the Code of Federal Regulations and listed in the appendix to the OCS air regulations.

DATES: This rule is effective on October 18, 2017. The incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register as of October 18, 2017.

ADDRESSES: EPA has established docket number OAR–2004–0091 for this action. The index to the docket is available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available in either location (*e.g.,* CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Air Division (Air-4), U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105, (415) 947–4125, *vineyard.christine@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, the terms ''we,'' ''us,'' or ''our'' refer to U.S. EPA.

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

I. Proposed Action

On June 17, 2016 (81 FR 39607) and December 12, 2016 (81 FR 39607), EPA proposed to incorporate various Santa Barbara County APCD and Ventura County APCD air pollution control requirements into the OCS Air Regulations at 40 CFR part 55. We are incorporating these requirements in response to the submittal of these rules by the Districts. EPA has evaluated the proposed requirements to ensure that they are rationally related to the attainment or maintenance of federal or state ambient air quality standards or Part C of title I of the Act, that they are not designed expressly to prevent exploration and development of the OCS and that they are applicable to OCS sources. 40 CFR 55.1. EPA has also evaluated the rules to ensure that they are not arbitrary or capricious. 40 CFR 55.12(e).

Section 328(a) of the Act requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of states' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into part 55 as they exist onshore. This limits EPA's flexibility in deciding which requirements will be incorporated into part 55 and prevents EPA from making substantive changes to the requirements it incorporates. As a result, EPA may be incorporating rules into part 55 that do not conform to all of EPA's state implementation plan (SIP) guidance or certain requirements of the Act. Consistency updates may result in the inclusion of state or local rules or regulations into part 55, even though the same rules may ultimately be disapproved for inclusion as part of the SIP. Inclusion in the OCS rule does not imply that a rule meets the requirements of the Act for SIP approval, nor does it imply that the rule will be approved by EPA for inclusion in the SIP.

II. Public Comments and EPA Responses

EPA's proposed actions provided 30-day public comment periods. During these periods, we received no comments on the proposed actions.

III. EPA Action

No comments were submitted. Therefore, as authorized in section 328(a)(1) of the Act, 42 U.S.C. 7627, the EPA is taking final action to incorporate the proposed changes into 40 CFR part 55. Section 328(a) of the Act requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of states' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into Part 55 as they exist onshore.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Santa Barbara County APCD and Ventura County APCD requirements described in the amendments to 40 CFR part 55 set forth below. The EPA has made, and will continue to make, these documents available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to establish requirements to control air pollution from OCS sources located within 25 miles of States' seaward boundaries that are the same as onshore air control requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into part 55 as they exist onshore. 42 U.S.C. 7627(a)(1); 40 CFR 55.12. Thus, in promulgating OCS consistency updates, EPA's role is to maintain consistency between OCS regulations and the regulations of onshore areas, provided that they meet the criteria of the Clean Air Act. Accordingly, this action simply updates the existing OCS requirements to make them consistent with requirements onshore, without the exercise of any policy discretion by EPA. For that reason, this action:

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

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, nor does it impose substantial direct compliance costs on tribal governments, nor preempt tribal law.

Under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in 40 CFR part 55 and, by extension, this update to the rules, and has assigned OMB control number 2060–0249. Notice of OMB's approval of EPA Information Collection Request (''ICR'') No. 1601.07 was published in the **Federal Register** on February 17, 2009 (74 FR 7432). The approval expires January 31, 2012. As EPA previously indicated (70 FR 65897–65898 (November 1, 2005)), the annual public reporting and recordkeeping burden for collection of information under 40 CFR part 55 is estimated to average 549 hours per response, using the definition of burden provided in 44 U.S.C. 3502(2).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 17, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 55

Environmental protection, Administrative practice and procedures, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Nitrogen oxides, Outer continental shelf, Ozone, Particulate matter, Permits, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: April 20, 2017.

Alexis Strauss,

Acting Regional Administrator, Region IX.

Title 40 of the Code of Federal Regulations, Part 55, is amended as follows:

PART 55—OUTER CONTINENTAL SHELF AIR REGULATIONS

■ 1. The authority citation for part 55 continues to read as follows:

Authority: Section 328 of the Clean Air Act (42 U.S.C. 7401 *et seq.*) as amended by Public Law 101–549.

■ 2. Section 55.14 is amended by revising paragraphs (e)(3)(ii)(F) and (H) to read as follows:

§ 55.14 Requirements that apply to OCS sources located within 25 miles of States' seaward boundaries, by State.

* * * * *

(e) * * *

(3) * * *

(ii) * * *

(F) *Santa Barbara County Air Pollution Control District Requirements Applicable to OCS Sources,* April 2017.

* * * * *

(H) *Ventura County Air Pollution Control District Requirements Applicable to OCS Sources,* parts 1 and 2, April 2017.

* * * * *

■ 3. Appendix A to part 55 is amended by revising paragraphs (b)(6) and (8) under the heading ''California'' to read as follows:

Appendix A to Part 55—Listing of State and Local Requirements Incorporated by Reference Into Part 55, by State

* * * * *

California

* * * * *

(b) * * *

(6) The following requirements are contained in *Santa Barbara County Air Pollution Control District Requirements Applicable to OCS Sources, April 2017:*

Rule 102 Definitions (Revised 08/25/16)
Rule 103 Severability (Adopted 10/23/78)
Rule 105 Applicability (Revised 08/25/16)
Rule 107 Emergencies (Adopted 04/19/01)
Rule 201 Permits Required (Revised 06/19/08)
Rule 202 Exemptions to Rule 201 (Revised 08/25/16)
Rule 203 Transfer (Revised 04/17/97)
Rule 204 Applications (Revised 08/25/16)
Rule 205 Standards for Granting Permits (Revised 04/17/97)
Rule 206 Conditional Approval of Authority to Construct or Permit to Operate (Revised 10/15/91)
Rule 207 Denial of Application (Adopted 10/23/78)
Rule 210 Fees (Revised 03/17/05)
Rule 212 Emission Statements (Adopted 10/20/92)
Rule 301 Circumvention (Adopted 10/23/78)
Rule 302 Visible Emissions (Revised 6/1981)
Rule 303 Nuisance (Adopted 10/23/78)
Rule 304 Particulate Matter-Northern Zone (Adopted 10/23/78)
Rule 305 Particulate Matter Concentration-Southern Zone (Adopted 10/23/78)
Rule 306 Dust and Fumes-Northern Zone (Adopted 10/23/78)
Rule 307 Particulate Matter Emission Weight Rate-Southern Zone (Adopted 10/23/78)
Rule 308 Incinerator Burning (Adopted 10/23/78)
Rule 309 Specific Contaminants (Adopted 10/23/78)
Rule 310 Odorous Organic Sulfides (Adopted 10/23/78)
Rule 311 Sulfur Content of Fuels (Adopted 10/23/78)
Rule 312 Open Fires (Adopted 10/02/90)
Rule 316 Storage and Transfer of Gasoline (Revised 01/15/09)
Rule 317 Organic Solvents (Adopted 10/23/78)
Rule 318 Vacuum Producing Devices or Systems-Southern Zone (Adopted 10/23/78)
Rule 321 Solvent Cleaning Operations (Revised 06/21/12)
Rule 322 Metal Surface Coating Thinner and Reducer (Adopted 10/23/78)
Rule 323 Architectural Coatings (Revised 11/15/01)
Rule 323.1 Architectural Coatings (Adopted 06/19/14, Effective 01/01/15)
Rule 324 Disposal and Evaporation of Solvents (Adopted 10/23/78)
Rule 325 Crude Oil Production and Separation (Revised 07/19/01)
Rule 326 Storage of Reactive Organic Compound Liquids (Revised 01/18/01)
Rule 327 Organic Liquid Cargo Tank Vessel Loading (Revised 12/16/85)
Rule 328 Continuous Emission Monitoring (Adopted 10/23/78)
Rule 330 Surface Coating of Metal Parts and Products (Revised 06/21/12)
Rule 331 Fugitive Emissions Inspection and Maintenance (Revised 12/10/91)
Rule 332 Petroleum Refinery Vacuum Producing Systems, Wastewater Separators and Process Turnarounds (Adopted 06/11/79)
Rule 333 Control of Emissions from Reciprocating Internal Combustion Engines (Adopted 06/19/08)
Rule 342 Control of Oxides of Nitrogen (NO_X) from Boilers, Steam Generators and Process Heaters) (Revised 04/17/97)
Rule 343 Petroleum Storage Tank Degassing (Adopted 12/14/93)
Rule 344 Petroleum Sumps, Pits, and Well Cellars (Adopted 11/10/94)
Rule 346 Loading of Organic Liquid Cargo Vessels (Revised 01/18/01)
Rule 349 Polyester Resin Operations (Revised 06/21/12)
Rule 352 Natural Gas-Fired Fan-Type Central Furnaces and Residential Water Heaters (Revised 10/20/11)
Rule 353 Adhesives and Sealants (Revised 06/21/12)
Rule 359 Flares and Thermal Oxidizers (Adopted 06/28/94)
Rule 360 Emissions of Oxides of Nitrogen from Large Water Heaters and Small Boilers (Adopted 10/17/02)
Rule 361 Small Boilers, Steam Generators, and Process Heaters (Adopted 01/17/08)
Rule 370 Potential to Emit—Limitations for Part 70 Sources (Revised 01/20/11)
Rule 505 Breakdown Conditions Sections A.,B.1, and D. only (Adopted 10/23/78)
Rule 603 Emergency Episode Plans (Adopted 06/15/81)
Rule 702 General Conformity (Adopted 10/20/94)
Rule 801 New Source Review—Definitions and General Requirements (Revised 08/25/16)
Rule 802 New Source Review (Revised 08/25/16)
Rule 804 Emission Offsets (Revised 08/25/16)
Rule 805 Air Quality Impact Analysis, Modeling, Monitoring, and Air Quality Increment Consumption (Revised 08/25/16)
Rule 806 Emission Reduction Credits (Revised 08/25/16)
Rule 808 New Source Review for Major Sources of Hazardous Air Pollutants (Adopted 05/20/99)
Rule 809 Federal Minor Source New Source Review (Revised 08/25/16)
Rule 810 Federal Prevention of Significant Deterioration (PSD) (Revised 06/20/13)
Rule 1301 Part 70 Operating Permits—General Information (Revised 08/25/16)
Rule 1302 Part 70 Operating Permits—Permit Application (Adopted 11/09/93)
Rule 1303 Part 70 Operating Permits—Permits (Revised 01/18/01)
Rule 1304 Part 70 Operating Permits—Issuance, Renewal, Modification and Reopening (Revised 01/18/01)
Rule 1305 Part 70 Operating Permits—Enforcement (Adopted 11/09/93)

* * * * *

(8) The following requirements are contained in *Ventura County Air Pollution Control District Requirements Applicable to OCS Sources,* parts 1 and 2, April 2017:

Rule 2 Definitions (Revised 04/12/11)
Rule 5 Effective Date (Revised 04/13/04)
Rule 6 Severability (Revised 11/21/78)
Rule 7 Boundaries (Adopted 06/14/77)
Rule 10 Permits Required (Revised 04/13/04)
Rule 11 Definition for Regulation II (Amended 03/14/06)
Rule 12 Applications for Permits (Adopted 06/13/95)
Rule 13 Action on Applications for an Authority To Construct (Adopted 06/13/95)
Rule 14 Action on Applications for a Permit To Operate (Adopted 06/13/95)
Rule 15.1 Sampling and Testing Facilities (Adopted 10/12/93)
Rule 16 BACT Certification (Adopted 06/13/95)
Rule 19 Posting of Permits (Revised 05/23/72)
Rule 20 Transfer of Permit (Revised 05/23/72)
Rule 23 Exemptions From Permits (Revised 11/12/13)
Rule 24 Source Recordkeeping, Reporting, and Emission Statements (Revised 09/15/92)
Rule 26 New Source Review—General (Amended 03/14/06)
Rule 26.1 New Source Review—Definitions (Revised 11/14/06)
Rule 26.2 New Source Review—Requirements (Revised 03/14/06)
Rule 26.3 New Source Review—Exemptions (Revised 3/14/06)
Rule 26.6 New Source Review—Calculations (Revised 3/14/06)
Rule 26.8 New Source Review—Permit To Operate (Adopted 10/22/91)
Rule 26.11 New Source Review—ERC Evaluation at Time of Use (Adopted 05/14/02)
Rule 26.12 Federal Major Modifications (Adopted 06/27/06)
Rule 26.13 New Source Review—Prevention of Significant Deterioration (PSD) (Revised 11/10/15)

Rule 28 Revocation of Permits (Revised 07/18/72)
Rule 29 Conditions on Permits (Revised 03/14/06)
Rule 30 Permit Renewal (Revised 04/13/04)
Rule 32 Breakdown Conditions: Emergency Variances, A., B.1., and D. only. (Revised 02/20/79)
Rule 33 Part 70 Permits-General (Revised 04/12/11)
Rule 33.1 Part 70 Permits—Definitions (Revised 04/12/11)
Rule 33.2 Part 70 Permits—Application Contents (Revised 04/10/01)
Rule 33.3 Part 70 Permits—Permit Content (Revised 09/12/06)
Rule 33.4 Part 70 Permits—Operational Flexibility (Revised 04/10/01)
Rule 33.5 Part 70 Permits—Timeframes for Applications, Review and Issuance (Adopted 10/12/93)
Rule 33.6 Part 70 Permits—Permit Term and Permit Reissuance (Adopted 10/12/93)
Rule 33.7 Part 70 Permits—Notification (Revised 04/10/01)
Rule 33.8 Part 70 Permits—Reopening of Permits (Adopted 10/12/93)
Rule 33.9 Part 70 Permits—Compliance Provisions (Revised 04/10/01)
Rule 33.10 Part 70 Permits—General Part 70 Permits (Adopted 10/12/93)
Rule 34 Acid Deposition Control (Adopted 03/14/95)
Rule 35 Elective Emission Limits (Revised 04/12/11)
Rule 36 New Source Review—Hazardous Air Pollutants (Adopted 10/06/98)
Rule 42 Permit Fees (Revised 04/12/16)
Rule 44 Exemption Evaluation Fee (Revised 04/08/08)
Rule 45 Plan Fees (Adopted 06/19/90)
Rule 45.2 Asbestos Removal Fees (Revised 08/04/92)
Rule 47 Source Test, Emission Monitor, and Call-Back Fees (Adopted 06/22/99)
Rule 50 Opacity (Revised 04/13/04)
Rule 52 Particulate Matter—Concentration (Grain Loading)(Revised 04/13/04)
Rule 53 Particulate Matter—Process Weight (Revised 04/13/04)
Rule 54 Sulfur Compounds (Revised 01/14/14)
Rule 56 Open Burning (Revised 11/11/03)
Rule 57 Incinerators (Revised 01/11/05)
Rule 57.1 Particulate Matter Emissions From Fuel Burning Equipment (Adopted 01/11/05)
Rule 62.7 Asbestos-Demolition and Renovation (Adopted 06/16/92, Effective 09/01/92)
Rule 63 Separation and Combination of Emissions (Revised 11/21/78)
Rule 64 Sulfur Content of Fuels (Revised 04/13/99)
Rule 68 Carbon Monoxide (Revised 04/13/04)
Rule 71 Crude Oil and Reactive Organic Compound Liquids (Revised 12/13/94)
Rule 71.1 Crude Oil Production and Separation (Revised 06/16/92)
Rule 71.2 Storage of Reactive Organic Compound Liquids (Revised 09/26/89)
Rule 71.3 Transfer of Reactive Organic Compound Liquids (Revised 06/16/92)
Rule 71.4 Petroleum Sumps, Pits, Ponds, and Well Cellars (Revised 06/08/93)
Rule 71.5 Glycol Dehydrators (Adopted 12/13/94)
Rule 72 New Source Performance Standards (NSPS) (Revised 09/9/08)
Rule 73 National Emission Standards for Hazardous Air Pollutants (NESHAPS) (Revised 09/9/08)
Rule 74 Specific Source Standards (Adopted 07/06/76)
Rule 74.1 Abrasive Blasting (Revised 11/12/91)
Rule 74.2 Architectural Coatings (Revised 01/12/10)
Rule 74.6 Surface Cleaning and Degreasing (Revised 11/11/03—effective 07/01/04)
Rule 74.6.1 Batch Loaded Vapor Degreasers (Adopted 11/11/03—effective 07/01/04)
Rule 74.7 Fugitive Emissions of Reactive Organic Compounds at Petroleum Refineries and Chemical Plants (Revised 10/10/95)
Rule 74.8 Refinery Vacuum Producing Systems, Waste-Water Separators and Process Turnarounds (Revised 07/05/83)
Rule 74.9 Stationary Internal Combustion Engines (Revised 11/08/05)
Rule 74.10 Components at Crude Oil Production Facilities and Natural Gas Production and Processing Facilities (Revised 03/10/98)
Rule 74.11 Natural Gas-Fired Residential Water Heaters—Control of NO_X (Revised 05/11/10)
Rule 74.11.1 Large Water Heaters and Small Boilers (Revised 09/11/12)
Rule 74.12 Surface Coating of Metal Parts and Products (Revised 04/08/08)
Rule 74.15 Boilers, Steam Generators and Process Heaters (5 MMBTUs and greater) (Revised 11/08/94)
Rule 74.15.1 Boilers, Steam Generators and Process Heaters (1 to 5 MMBTUs) (Revised 06/23/15)
Rule 74.16 Oil Field Drilling Operations (Adopted 01/08/91)
Rule 74.20 Adhesives and Sealants (Revised 09/11/12)
Rule 74.23 Stationary Gas Turbines (Revised 1/08/02)
Rule 74.24 Marine Coating Operations (Revised 09/11/12)
Rule 74.24.1 Pleasure Craft Coating and Commercial Boatyard Operations (Revised 01/08/02)
Rule 74.26 Crude Oil Storage Tank Degassing Operations (Adopted 11/08/94)
Rule 74.27 Gasoline and ROC Liquid Storage Tank Degassing Operations (Adopted 11/08/94)
Rule 74.28 Asphalt Roofing Operations (Adopted 05/10/94)
Rule 74.30 Wood Products Coatings (Revised 06/27/06)
Rule 74.31 Metal Working Fluids and Direct-Contact Lubricants (Adopted 11/12/13)
Rule 75 Circumvention (Revised 11/27/78)
Rule 101 Sampling and Testing Facilities (Revised 05/23/72)
Rule 102 Source Tests (Revised 04/13/04)
Rule 103 Continuous Monitoring Systems (Revised 02/09/99)
Rule 154 Stage 1 Episode Actions (Adopted 09/17/91)
Rule 155 Stage 2 Episode Actions (Adopted 09/17/91)
Rule 156 Stage 3 Episode Actions (Adopted 09/17/91)
Rule 158 Source Abatement Plans (Adopted 09/17/91)
Rule 159 Traffic Abatement Procedures (Adopted 09/17/91)
Rule 220 General Conformity (Adopted 05/09/95)
Rule 230 Notice to Comply (Revised 9/9/08)

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 423

[EPA–HQ–OW–2009–0819; FRL–9967–90–OW]

RIN 2040–AF76

Postponement of Certain Compliance Dates for the Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Under the Clean Water Act (''CWA''), The Environmental Protection Agency (EPA) intends to conduct a rulemaking to potentially revise certain best available technology economically achievable (''BAT'') effluent limitations and pretreatment standards for existing sources (''PSES'') for the steam electric power generating point source category, which were published in the **Federal Register** on November 3, 2015. EPA is, accordingly, postponing the associated compliance dates in the 2015 Rule. In particular, EPA is postponing the earliest compliance dates for the new, more stringent, BAT effluent limitations and PSES for flue gas desulfurization (''FGD'') wastewater and bottom ash transport water in the 2015 Rule for a period of two years. At this time, EPA does not intend to conduct a rulemaking that would potentially revise the new, more stringent BAT effluent limitations and pretreatment standards in the 2015 Rule for fly ash transport water, flue gas mercury control wastewater, and gasification wastewater, or any of the other requirements in the 2015 Rule. As such, EPA is not changing the compliance dates for the BAT limitations and PSES established by the 2015 Rule for these wastestreams. EPA's action to postpone certain compliance dates in the 2015 Rule is intended to preserve the status quo for FGD wastewater and bottom ash transport

water until EPA completes its next rulemaking concerning those wastestreams, and it thus does not otherwise amend the effluent limitations guidelines and standards for the steam electric power generating point source category.

DATES: The final rule is effective September 18, 2017. In accordance with 40 CFR part 23, this regulation shall be considered issued for purposes of judicial review at 1 p.m. Eastern Standard Time on October 2, 2017. Under section 509(b)(1) of the CWA, judicial review of this regulation can be had only by filing a petition for review in the U.S. Court of Appeals within 120 days after the regulation is considered issued for purposes of judicial review. Under section 509(b)(2), the requirements in this regulation may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–OW–2009–0819. All documents in the docket are listed on the *https://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Ronald Jordan, United States Environmental Protection Agency, Engineering and Analysis Division; telephone number: (202) 566–1003; email address: *jordan.ronald@epa.gov.* Electronic copies of this document and related materials are available on EPA's Web site at *https://www.epa.gov/eg/steam-electric-power-generatingeffluent-guidelines-2015-final-rule.* Copies of this final rule are also available at *http://www.regulations.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On November 3, 2015, the EPA published a final rule amending 40 CFR part 423, the effluent limitations guidelines and standards for the steam electric power generating point source category, under Sections 301, 304, 306, 307, 308, 402, and 501 of the CWA (33 U.S.C. 1311, 1314, 1316, 1317, 1318, 1342, and 1361). The amendments addressed limitations and standards on various wastestreams at steam electric power plants: FGD wastewater, bottom ash transport water, fly ash transport water, flue gas mercury control wastewater, gasification wastewater, and combustion residual leachate. Collectively, this rulemaking is known as the ''Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category,'' or ''2015 Rule.'' For further information on the 2015 Rule, see 80 FR 67838 (November 3, 2015).

EPA received seven petitions for review of the 2015 Rule. The U.S. Judicial Panel on Multi-District Litigation issued an order on December 8, 2015, consolidating all of the petitions in the U.S. Court of Appeals for the Fifth Circuit, *Southwestern Electric Power Co., et al.* v. *EPA,* No. 15–60821.

In a letter dated March 24, 2017, the Utility Water Act Group (''UWAG'')[1] submitted a petition for reconsideration of the 2015 Rule which requested that EPA suspend the Rule's approaching deadlines. UWAG supplemented its petition with additional information in a letter dated April 13, 2017. In a letter dated April 5, 2017, the Small Business Administration (''SBA'') Office of Advocacy sent EPA a second petition for reconsideration of the 2015 Rule, which expressly supports UWAG's petition and raises issues that SBA considers to be pertinent to small businesses. The petitions raise wide-ranging objections to the Rule.[2] Among other things, the UWAG petition points to new data which they believe show that plants burning subbituminous and bituminous coal cannot comply with the 2015 Rule's limitations and standards for FGD wastewater and questions EPA's characterization of bottom ash transport water. UWAG also requested that EPA suspend or delay the ''rule's fast-approaching compliance deadlines while EPA works to reconsider and revise, as appropriate, the substantive requirements of the current rule.''

In an April 12, 2017 letter to those who submitted the reconsideration petitions, the Administrator announced his decision to reconsider the 2015 Rule. See DCN SE06612. As explained in that letter, after considering the objections raised in the reconsideration petitions, the Administrator determined that it is appropriate and in the public interest to reconsider the Rule. On April 14, 2017, EPA requested that the Fifth Circuit hold the case in abeyance while the Agency undertook reconsideration. On April 24, 2017, the Fifth Circuit granted the motion and placed the case in abeyance.

On June 6, 2017 (82 FR 26017), EPA proposed to postpone the compliance dates for the new, more stringent, BAT effluent limitations and PSES in the 2015 Rule for each of the following wastestreams: FGD wastewater, bottom ash transport water, fly ash transport water, flue gas mercury control wastewater, and gasification wastewater, while reconsideration of the 2015 Rule was underway. EPA explained that this postponement would preserve the regulatory status quo with respect to wastestreams subject to the 2015 Rule's new, and more stringent, limitations and standards during reconsideration and that postponement of compliance dates is intended to prevent the unnecessary expenditure of resources until EPA finalizes any rulemaking as a result of its reconsideration of the 2015 Rule. EPA also solicited comments on whether this postponement should be for a specified period of time, for example, two years.

On August 11, 2017, EPA sent a second letter to those who had requested reconsideration of the 2015 Rule, announcing the Administrator's decision to conduct a new rulemaking to potentially revise the new, more stringent BAT limitations and PSES in the 2015 Rule that apply to two wastestreams: FGD wastewater and bottom ash transport water. See DCN SE06670. On August 14, 2017, EPA filed a motion to govern further proceedings in the U.S. Court of Appeals for the Fifth Circuit, which explained that EPA intends to conduct further rulemaking to potentially revise the new, more stringent BAT/PSES requirements in the 2015 Rule applicable to FGD wastewater and bottom ash transport water, and requested, in part, that the Court sever and hold in abeyance all judicial proceedings concerning portions of the 2015 Rule related to those particular requirements. On August 22, 2017, the Court granted EPA's motion.

In an earlier action, EPA administratively postponed certain compliance dates that had not yet passed in part of the 2015 Rule pursuant to Section 705 of the Administrative Procedure Act (''APA''), 5 U.S.C. 705, which states that ''[w]hen an agency finds that justice so requires, it may postpone the effective date of action taken by it pending judicial review.'' 82 FR 19005 (April 25, 2017). EPA had postponed the compliance dates as a

[1] According to the petition, UWAG is a voluntary, ad hoc, unincorporated group of 163 individual energy companies and three national trade associations of energy companies: Edison Electric Institute, the National Rural Electric Cooperative Association, and the American Public Power Association.

[2] A copy of each petition and the supplemental information is included in the docket for this rule, Docket ID No. EPA–HQ–OW–2009–0819.

temporary measure pursuant to Section 705 to preserve the status quo while the litigation in the Fifth Circuit was pending and EPA's reconsideration was underway. Because EPA has decided to conduct further rulemaking to potentially revise the new, more stringent BAT limitations and PSES in the 2015 Rule applicable to two specific wastestreams (FGD wastewater and bottom ash transport water), and it is today finalizing a rule which postpones the associated compliance dates in the 2015 Rule pending its next rulemaking, there is no longer any need for the Agency to maintain its prior action pursuant to Section 705 of the APA. EPA, hereby, withdraws that action.

II. Summary of Comments Received

EPA received thousands of written comments on the proposed rule to postpone certain compliance dates in the 2015 Rule. EPA also held a public hearing on July 31, 2017. The comments on the proposed rule generally fall into one of four categories: (1) Support for postponement of compliance dates; (2) opposition to the postponement of compliance dates; (3) comments on the substantive requirements of the 2015 Rule (which are outside the scope of this action, which concerns postponing certain compliance dates only); and (4) comments on the length of time that EPA should postpone the compliance dates.

Commenters that support the postponement rule generally assert that the postponement is appropriate to prevent industry from spending ''unnecessary resources'' until EPA completes its reconsideration of the 2015 Rule. Many commenters who support a postponement in compliance dates state that, given the substantial costs required to implement technology required to comply with the 2015 Rule, as well as the time needed for designing and optimizing treatment systems, certainty in the discharge requirements is needed and postponement of compliance dates allows for that. In addition, commenters argue that the Agency has both the authority and the responsibility to postpone the 2015 Rule until it completes any rulemaking following its reconsideration process.

Comments on the length of the postponement generally assert that EPA should postpone the compliance dates for a minimum of two years, until EPA has taken final action on any rule revisions, or some time period beyond when EPA has taken final action on any rule revisions.

Commenters that oppose the postponement rule generally assert that (1) the technology bases underlying the 2015 Rule are widely available and affordable now, many steam electric plants have already installed or are in the process of implementing these technologies, and postponing the compliance dates would hinder technology development; (2) any postponement allows power plants to continue to discharge pollutants that are harmful to public health and the environment, and the forgone public health and environmental benefits during any postponement outweigh the costs to industry; and (3) EPA lacks authority to postpone the compliance dates.

III. Rationale for Finalizing a Postponement of Compliance Dates

In light of new information not contained in the record for the 2015 Rule and the inherent discretion the Agency has to reconsider past policy decisions consistent with the CWA and other applicable law, EPA intends to conduct a new rulemaking regarding the appropriate technology bases and associated limits for the BAT/PSES requirements applicable to FGD wastewater and bottom ash transport water discharged from steam electric power plants. Given this, and after carefully considering comments received on the proposed rule, EPA finds it appropriate to postpone the earliest compliance dates for the new, more stringent, BAT effluent limitations and PSES applicable to FGD wastewater and bottom ash transport water in the 2015 Rule until it completes the new rulemaking. This maintains the 2015 Rule as a whole at this time, with the only change being to postpone specific compliance deadlines for two wastestreams. Thus, the earliest compliance dates for plants to meet the new, more stringent FGD wastewater and bottom ash wastewater limitations and standards in the 2015 Rule, which were to be determined by the permitting authority as a date ''as soon as possible beginning November 1, 2018 . . .'', are now to be determined by the permitting authority as a date ''as soon as possible beginning November 1, 2020 . . . .'' EPA is not changing the ''no later than'' date of December 31, 2023, because EPA is not aware that the 2023 date is an immediate driver for expenditures by plants (petitioners had requested relief from the ''fast-approaching compliance deadlines'' in the 2015 Rule), and EPA plans to take up the appropriate compliance period in its next rulemaking. In order to be absolutely clear about what is being postponed, the final rule includes more precise regulatory text to implement the rule than was included in the proposed rule.

Agencies have inherent authority to reconsider past decisions and to revise, replace or repeal a decision to the extent permitted by law and supported by a reasoned explanation. *FCC* v. *Fox Television Stations, Inc.,* 556 U.S. 502, 515 (2009); *Motor Vehicle Mfrs. Ass'n* v. *State Farm Mutual Auto. Ins. Co.,* 463 U.S. 29, 42 (1983). *See also Nat'l Ass'n of Home Builders* v. *EPA,* 682 F.3d 1032, 1038 & 1043 (D.C. Cir. 2012). Particularly relevant here, the CWA expressly authorizes EPA to revise effluent limitations and standards. 33 U.S.C. 1311(d), 1314(b), (g)(1), (m)(1)(A), 1317(b)(2). Moreover, in doing so, Section 304(b)(2)(B) of the CWA directs EPA to consider several factors, including ''other factors as the Administrator deems appropriate,'' and the Agency is afforded considerable discretion in deciding how much weight to give each factor. *See, e.g., Weyerhaeuser Co.* v. *Costle,* 590 F.2d 1011, 1045 (D.C. Cir. 1978). In this case, where EPA has decided to undertake a new rulemaking, which may result in substantive changes to the 2015 Rule, that is an appropriate factor to consider and one that warrants the postponement of compliance dates for the new, more stringent BAT and PSES requirements for two wastestreams in the 2015 Rule, until such a rulemaking is complete (*i.e.,* EPA issues any final rule that substantively revises the 2015 Rule or EPA decides not to issue such a final rule). This will prevent the potentially needless expenditure of resources during a rulemaking that may ultimately change the 2015 Rule in these respects.

As mentioned, some commenters stated that the record for the 2015 Rule demonstrates that the technologies underlying the new, more stringent requirements for FGD wastewater and bottom ash transport water are widely available and affordable. Notwithstanding statements in the 2015 Rule record, certain parties have raised serious concerns about the availability and affordability of the technology basis for the FGD wastewater and bottom ash transport water requirements in the 2015 Rule, and the Administrator wishes to take some time to carefully review these requirements in light of those concerns and ensure any such requirements are technologically available and economically achievable within the meaning of the statute. EPA has discretion in determining technological availability and economic achievability and is not constrained by the CWA to make the same policy decision as the former Administration, so long as its decision is reasonable. As explained above, the Agency may

reconsider past policy decisions consistent with the Clean Water Act and other applicable law. The Agency may also reconsider technical determinations in light of new information submitted to the Agency that was not in the record for the 2015 Rule. EPA intends to fully evaluate all of the issues raised in the petitions, including concerns about: Cost and impacts to steam electric facilities, public availability of information on which the rule is based, lack of data for plants that burn certain types of coal, and validity of certain pollutant data used in EPA's 2015 Rule analysis. For example, petitioners raised concerns about the numerical BAT limitations and PSES applicable to FGD wastewater in the 2015 Rule. They assert that there are differences among coal types that affect the performance and costs of biological treatment and that EPA did not have data to demonstrate the performance of biological treatment on all coal types. To resolve this concern, following the rulemaking, industry collected (and continues to collect) additional data on the performance of biological treatment for different coal types. As another example, petitioners raised questions about the inclusion and validity of certain data due, in part, to what they assert are flaws in data acceptance criteria, obsolete analytical methods, and the treatment of non-detect analytical results, which petitioners believed resulted in an overestimation of pollutant loadings for bottom ash transport water. EPA agrees that these are important issues that warrant further consideration in conjunction with the statutory factors for determining BAT for these wastestreams. EPA thus intends to re-evaluate these and other concerns raised in the petitions in the next rulemaking. EPA acknowledges that postponement of certain of the 2015 Rule's compliance dates may be disruptive to vendors and treatment technology suppliers. EPA, however, must also consider the substantial investments required by the steam electric power industry to comply with the BAT limitations and PSES,[3] and that certainty regarding the limitations and standards deserves prominent consideration by the Agency when these limitations and standards may change. As UWAG pointed out in its April 13, 2017 letter, ''a rule of this magnitude and complexity requires substantial time to come into compliance for multiple wastestreams. Detailed studies and planning, followed by large capital expenditures and subsequent installation and testing, are time-consuming.'' Companies have been evaluating their compliance options and are reaching the point at which they will be committing funds, incurring costs, or commencing construction to install technologies.

As part of the 2015 Rule, EPA estimated the costs associated with compliance with the 2015 Rule's new requirements. For all applicable wastestreams, EPA assessed the operations and treatment system components, identified equipment and process changes that the plant would likely make to meet the 2015 Rule, and estimated the cost to implement those changes. This includes, among other things, the capital costs of installing the technology (based on estimates of the technology selected as representing the level of control) and the operation and maintenance costs of operating the technology. See Technical Development Document (''TDD''), pp. 9–1 through 9–52. EPA estimated that the total post-tax annualized compliance costs would be $339.6 million/year. See Regulatory Impact Analysis (''RIA''), Table 3–2 (Option D).[4]

The 2015 rulemaking record also describes evaluation of the initial capital costs that regulated parties would incur in the near term (if a stay were not in place) to meet the 2015 Rule's effluent limitations and standards. For the purpose of analysis, in the RIA, EPA assumed that all capital costs are incurred concurrently with technology installation according to discharge permit renewal schedules, but EPA realizes that feasibility studies and planning may need to be completed in advance of that date. Specifically, plants would incur engineering design costs, costs to acquire equipment, freight shipping costs to transport equipment from manufacturers to the installation site, costs for actions to prepare the site (such as installing concrete foundations and buildings for the new equipment), and construction expenses associated with connecting electrical and piping systems to new equipment. See TDD, p. 9–3. EPA estimated post-tax annualized capital costs of $204.4 million/year. See RIA, Table 3–2 (Option D). Although there is a wide degree of variability among the costs particular plants would expend, EPA estimates that the average post-tax annualized capital compliance costs for a plant would be approximately $1.5 million/year. See TDD, Table 9–19 (plants with compliance costs); RIA, Table 3–2 (Option D). To the extent that these costs are associated with the 2015 Rule requirements for FGD wastewater and bottom ash transport water, and in the event that EPA revises these requirements in a future rulemaking, these are costs that would be incurred for activities that ultimately might not be necessary. In that case, this would reflect costs incurred by facilities and potentially passed on to utility rate payers that ultimately did not need to be spent.

In light of these imminent planning and capital expenditures that facilities incurring costs under the 2015 Rule would need to undertake in order to meet the earliest compliance deadlines for the new, more stringent limitations and standards in the 2015 Rule, and the fact that the Agency is conducting a new rulemaking regarding the appropriate technology bases and associated limits for BAT limitations and PSES applicable to FGD wastewater and bottom ash transport water, the Agency views it as appropriate to postpone the earliest compliance dates that have not yet passed for these wastestreams in 2015 Rule. This will preserve the regulatory status quo with respect to requirements for FGD wastewater and bottom ash transport water until the new rulemaking is complete.

Some commenters also express concerns that postponement of compliance dates would hinder technology advancements. EPA's experience does not support this concern. The record for the 2015 Rule demonstrates that technology advancements were not hindered during that rulemaking. Rather, as explained in the preamble to the final 2015 Rule, vendors continued to improve existing technologies and to develop new technologies during the rulemaking leading up to the 2015 Rule.

EPA acknowledges that postponement of the compliance dates could lead to a delay in the accrual of some of the benefits attributable to the 2015 Rule. The 2015 Rule required that steam electric power plants would comply with the new, more stringent requirements no later than 2023, with plants expected to implement new control technologies over a five-year compliance period of 2019–2023 according to their permit renewal schedule. In the record for the 2015 Rule, EPA estimated the value of certain benefits linked to reduced pollutant

[3] In the 2015 Rule, EPA estimated the total annualized pre-tax compliance costs for the FGD and bottom ash requirements to be $486.8 million. See DCN SE05978.

[4] EPA analyzed both pre-tax and post-tax costs. Pre-tax costs provide insight on the total expenditures as initially incurred by the plants. Post-tax costs are a more meaningful measure of compliance impact on privately owned for-profit plants, and incorporate approximate capital depreciation and other relevant tax treatments in the analysis. RIA, p. 3–6.

discharges that could be monetized for the period 2019 through 2042. Based on the 2015 Rule data and methodology, and depending on the inclusion of the Clean Power Plan, EPA estimates that foregone annualized benefits for a two-year delay would be between $26.6 million and $33.6 million.[5] EPA similarly estimates that plants would experience annualized cost savings of between $27.5 million and $36.8 million as a result of a two-year delay. See DCN SE06668 for additional details, including calculations of the foregone benefits and cost savings. EPA understands that these estimates have uncertainty due to, for example, the possibility of unexpected implementation approaches, and thus that the actual cost savings could have been somewhat higher or lower than estimated. Similarly, due to data and analysis limitations, the forgone monetized benefits are likely underestimated. These estimates, however, are consistent with and reflect the best data and analysis available at the time of the 2015 Rule.

EPA notes that, as explained earlier, there is uncertainty as to the FGD wastewater and bottom ash transport water BAT/PSES requirements while EPA conducts a new rulemaking. If EPA did not postpone the compliance dates, industry would likely incur costs as it prepares to comply with the 2015 Rule, irrespective of what EPA ultimately determines to be BAT/PSES for FGD wastewater and bottom ash transport water. By contrast, under the 2015 Rule, even if permits were written today, the earliest those permits would have required compliance with the limitations and standards at issue are ''as soon as possible beginning November 1, 2018.'' So, while some companies would have to plan to comply and spend money right away, the benefits would not begin to accrue until 2018, at the earliest. Also, these benefits may not be lost if a permitting authority requires similar effluent limitations where necessary to meet applicable water quality standards, under CWA section 301(b)(1)(C). EPA has carefully weighed the concerns about potentially foregone benefits with the consideration of the costs that could needlessly be incurred should the requirements be changed, as well as the overall uncertainty and potential confusion that would be caused by imposing the 2015 Rule requirements while simultaneously undertaking rulemaking that may change those requirements. On balance, EPA has concluded the more reasonable approach is to postpone the compliance dates in the 2015 Rule.

Thus, EPA agrees with commenters who argue that it should postpone the new, more stringent BAT/PSES requirements for FGD wastewater and bottom ash transport water in the 2015 Rule until it completes a new rulemaking on these wastestreams. After reflecting on the time it typically takes the Agency to propose and finalize revised effluent limitations guidelines and standards, and in light the characteristics of this industry and the anticipated scope of the next rulemaking, EPA projects it will take approximately three years to propose and finalize a new rule (Fall 2020). See DCN SE06667. Consequently, EPA is postponing the earliest compliance dates for the new, more stringent, BAT effluent limitations and PSES for FGD wastewater and bottom ash transport water for a period of two years (November 1, 2020).[6] To the extent that commenters believe a postponement under this rule should last beyond the time it takes EPA to complete its new rulemaking, such comments are appropriately considered as part of, and in light of, that new rulemaking and not this action. As explained, this rule is intended only as a relatively short-term measure until EPA completes the next rulemaking, and EPA anticipates that the next rulemaking will necessarily address compliance dates in some fashion. Although EPA proposed to postpone the compliance dates for the new, more stringent requirements applicable to fly ash transport water, gasification wastewater, and flue gas mercury control (FGMC) wastewater, in addition to the requirements for FGD wastewater and bottom ash transport water, this final rule does not postpone those former compliance dates. Commenters stated that EPA has no basis to postpone compliance dates for requirements that parties have not expressly argued should be reconsidered, such as those for fly ash transport water and FGMC wastewater. EPA agrees that the final rule should postpone only those requirements that the Agency plans to potentially revise in the next rulemaking. Because EPA is not conducting a new rulemaking concerning any of the other issues addressed by the 2015 Rule, including requirements for fly ash transport water, gasification wastewater, and FGMC wastewater, EPA is not changing the compliance dates for these wastestreams or any of the other compliance dates for the requirements in that Rule. The record for the 2015 Rule demonstrates that changes associated with converting a fly ash system are unrelated from an engineering perspective to conversions/upgrades for bottom ash transport water and FGD treatment systems. Converting a fly ash system requires installing a silo to capture the dry fly ash, which is subsequently transported offsite to beneficial reuse markets (*e.g.,* cement plants) or landfilled. Bottom ash is handled separately, regardless of whether it is wet or dry. The same is true for FGD wastes. EPA recognizes however, that from a financing and long-term planning perspective, there are advantages to a facility in knowing the full suite of requirements it will need to comply with over a longer term planning horizon.

Some facilities commented that they may need to know what the ultimate requirements will be for bottom ash transport water and FGD wastewater to assist them in considering alternatives for meeting the requirements for the other waste streams (fly ash transport water and FGMC wastewater) for which EPA is not postponing the earliest compliance dates. EPA notes that there continues to be discretion under the 2015 Rule for permitting authorities to consider: Time needed to ''expeditiously plan (including time to raise capital), design, procure, and install equipment'' to comply with the rule; changes being made at the plant to comply with several other rules; and ''other factors as appropriate'' in determining exactly when, within a specified compliance period, the 2015 Rule's new, more stringent limitations apply to any given plant. See 40 CFR 423.11(t).

In light of the compliance date postponements being finalized today, in determining the ''as soon as possible date,'' EPA believes it would be reasonable for permitting authorities to consider the need for a facility to make integrated planning decisions regarding compliance with the requirements for all of the wastestreams currently subject to new, more stringent requirements in the 2015 Rule, as well as the other rules identified in § 423.11(t) to the extent that a facility demonstrates such a need. This could include harmonizing schedules to the extent provided for

[5] The calculations are based on the benefits and costs estimated for the 2015 Rule, which were detailed in the ''Benefit and Cost Analysis for the Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category'' (BCA) and ''Regulatory Impact Analysis for the Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category'' (RIA) reports.

[6] If EPA does not complete a new rulemaking by November, 2020, it plans to further postpone the compliance dates such that the earliest compliance date is not prior to completion of a new rulemaking.

under the 2015 Rule [7] for meeting the 2015 Rule requirements for fly ash transport water and FGMC wastewater to allow time for a facility to have certainty regarding what their ultimate requirements will be under the steam electric ELGs, as well as the requirements under the other rules listed in § 423.11(t).

This rule is effective immediately upon publication. Section 553(d) of the Administrative Procedure Act, 5 U.S.C. 553(d), provides that publication of a substantive rule must be made no less than 30 days before its effective date, subject to several exceptions. Section 553(d)(1) establishes an exception for ''a substantive rule which grants or recognizes an exemption or relieves a restriction.'' The exception in Section 553(d)(1) reflects the purpose of the 30-day notice requirement, which is to give affected entities time to prepare for the effective date of a rule or to take any other action which the issuance of a rule may prompt. This rule fits within Section 553(d)(1) because it postpones certain requirements on steam electric power plants to control their pollutant discharges by two years, and as a result, it relieves a restriction on regulated entities for that period.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review; and, Executive Order 13563: Improving Regulation and Regulatory Review

This action is a significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review. Any changes made in response to OMB recommendations have been documented in the docket.

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

This action is considered an Executive Order 13771 deregulatory action. Details on the estimated cost savings of this final rule can be found in EPA's analysis of the potential costs and benefits associated with this action.

C. Paperwork Reduction Act

This final rule does not involve any information collection activities subject to the PRA, 44 U.S.C. 3501 *et seq.*

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. This action maintains the 2015 Rule as a whole at this time, with the only change being to postpone specific compliance deadlines for two wastestreams. As described above, EPA estimates that steam electric plants, including some small entities, would experience annualized cost savings of $27.5 million as a result of this two-year delay. We have therefore concluded that this action will relieve regulatory burden for some directly regulated small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments.

F. Executive Order 13132: Federalism

This action does not have federalism implications, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have Tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000).

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

This final rule is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because EPA previously determined that the environmental health risks or safety risks addressed by the requirements EPA is finalizing do not present a disproportionate risk to children.

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

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution or use of energy.

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards that would require Agency consideration under NTTAA section 12(d), 15 U.S.C. 272 note.

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

This is a final rule to delay action, and it does not change the requirements of the effluent limitations guidelines and standards published in 2015. While the postponement in compliance dates could delay the protection the 2015 Rule would afford to all communities, including those impacted disproportionately by the pollutants in certain wastewater discharges, this action would not change any impacts of the 2015 Rule upon implementation. The EPA therefore believes it is more appropriate to consider the impact on minority and low-income populations in the context of possible substantive changes as part of any future rulemaking.

L. Congressional Review Act

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is a not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 423

Environmental protection, Electric power generation, Power plants, Waste treatment and disposal, Water pollution control.

Dated: September 12, 2017.

E. Scott Pruitt,

Administrator.

For reasons stated in the preamble, EPA amends 40 CFR part 423 as set forth below:

PART 423—STEAM ELECTRIC POWER GENERATING POINT SOURCE CATEGORY

■ 1. The authority citation for part 423 continues to read as follows:

Authority: Secs. 101; 301; 304(b), (c), (e), and (g); 306; 307; 308 and 501, Clean Water Act (Federal Water Pollution Control Act

[7] For any final effluent limitation that is specified to become applicable after November 1, 2018, the specified date must be as soon as possible, but in no case later than December 31, 2023.

Amendments of 1972, as amended; 33 U.S.C. 1251; 1311; 1314(b), (c), (e), and (g); 1316; 1317; 1318 and 1361).

■ 2. Amend § 423.11 by revising paragraph (t) introductory text to read as follows:

§ 423.11 Specialized definitions.

* * * * *

(t) The phrase ''as soon as possible'' means November 1, 2018 (except for purposes of § 423.13(g)(1)(i) and (k)(1)(i), and § 423.16(e) and (g), in which case it means November 1, 2020), unless the permitting authority establishes a later date, after receiving information from the discharger, which reflects a consideration of the following factors:

* * * * *

§ 423.13 [Amended]

■ 3. Amend § 423.13 paragraphs (g)(1)(i) and (k)(1)(i) by removing the text ''November 1, 2018'' and adding the text ''November 1, 2020'' in its place.

§ 423.16 [Amended]

■ 4. Amend § 423.16 paragraphs (e) two times, and (g) by removing the text ''November 1, 2018'' and adding the text ''November 1, 2020'' in its place.

[FR Doc. 2017–19821 Filed 9–15–17; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 170602535–7835–01]

RIN 0648–XF480

Atlantic Highly Migratory Species; Adjustments to 2017 Northern Albacore Tuna Quota, 2017 North and South Atlantic Swordfish Quotas, and 2017 Atlantic Bluefin Tuna Reserve Category Quota

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

ACTION: Temporary final rule.

SUMMARY: NMFS adjusts the northern albacore tuna annual baseline quota for 2017 with available underharvest of the 2016 adjusted U.S. northern albacore quota. NMFS also adjusts the North and South Atlantic swordfish baseline quotas for 2017 based on available underharvest from the 2016 adjusted U.S. quotas and international quota transfers. NMFS also augments the 2017 Atlantic bluefin tuna Reserve category quota with available underharvest of the 2016 adjusted U.S. bluefin tuna quota. This action is necessary to implement binding recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT), as required by the Atlantic Tunas Convention Act (ATCA), and to achieve domestic management objectives under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Effective September 18, 2017, through December 31, 2017.

ADDRESSES: Supporting documents such as Environmental Assessments and Fishery Management Plans and their Amendments described below may be downloaded from the HMS Web site at *www.nmfs.noaa.gov/sfa/hms/*. These documents also are available upon request from Sarah McLaughlin, Steve Durkee, or Gray Redding at the telephone numbers below.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin, 978–281–9260, Steve Durkee, 202–670–6637, or Gray Redding, 301–427–8503.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of northern albacore, swordfish, and bluefin tuna by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27(e) describes the northern albacore annual quota recommended by ICCAT and the annual northern albacore quota adjustment process. Section 635.27(c) describes the quota adjustment process for both North and South Atlantic swordfish. Section 635.27(a) subdivides the ICCAT-recommended U.S. bluefin tuna quota among the various domestic fishing categories, per the allocations established in the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006), as amended by Amendment 7 to the 2006 Consolidated HMS FMP (Amendment 7) (79 FR 71510, December 2, 2014), and describes the annual bluefin tuna quota adjustment process. NMFS is required under ATCA and the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest the ICCAT-recommended quotas.

The northern albacore quota implementation and quota adjustment processes, along with the bluefin tuna quota adjustment process, were previously analyzed in Amendment 7, which published in August 2014 and included a Final Environmental Impact Statement, Final Regulatory Impact Review (RIR), Final Regulatory Flexibility Analysis (FRFA), and Final Social Impact Statement. ICCAT conducted another bluefin tuna stock assessment update in 2014, and, after considering the scientific advice in the stock assessment, adopted a recommendation regarding western Atlantic bluefin tuna management that increases the U.S. bluefin tuna quota for 2015 and 2016 (ICCAT Recommendation 14–05). NMFS published a final rule to implement that baseline annual U.S. bluefin tuna quota on August 28, 2015 (80 FR 52198), and prepared an Environmental Assessment (EA), RIR, and FRFA for that action. ICCAT Recommendation 16–08 extended the U.S. bluefin tuna allocation established in Recommendation 14–05 through 2017.

The North Atlantic swordfish quota adjustment process was previously analyzed in the EA, RIR, and FRFA that were prepared for the 2012 Swordfish Quota Adjustment Rule (July 31, 2012; 77 FR 45273). The South Atlantic swordfish quota adjustment process was previously analyzed in the EA, RIR, and FRFA that were prepared for the 2007 Swordfish Quota Specification Final Rule (October 5, 2007; 72 FR 56929). In the 2016 North and South Atlantic Swordfish Quotas Adjustment Final Rule (July 26, 2016, 81 FR 48719), after taking public comment on the issue, NMFS announced its intent to no longer issue proposed and final specifications/rules for North and South Atlantic swordfish quotas adjustments in cases where the quota adjustment follows previously codified and analyzed formulas. Therefore, beginning this year, NMFS is instead issuing a temporary final rule to adjust the quota, in a similar process to northern albacore and bluefin tuna quota adjustments. NMFS will continue to undertake notice and comment rulemaking when adopting new quotas, quota formulas, or otherwise altering conservation and management measures.

Note that weight information for northern albacore and bluefin tuna below is shown in metric tons (mt) whole weight (ww), and both dressed weight (dw) and ww is shown for swordfish.

Northern Albacore Annual Quota and Adjustment Process

Since 1998, ICCAT has adopted recommendations regarding the northern albacore fishery. The current

ICCAT northern albacore recommendation (Recommendation 16–06) includes a total allowable catch (TAC) at 28,000 metric tons (mt) for 2017 and specific recommendations regarding the northern albacore conservation and management. The U.S. baseline quota for 2017 is 527 mt, annually. The baseline quota of 527 mt is codified at § 635.27(e) and will remain in effect until changed. For example, Recommendation 16–06 specifies that the quota for 2019 and 2020 will be 564.6 mt. It also specifies that if, in any year, the combined contracting parties' landings exceed the TAC, the Commission will re-evaluate the Recommendation and recommend further conservation measures, as appropriate.

Amendment 7 established the process by which NMFS adjusts the U.S. annual northern albacore quota for allowable underharvest, if any, in the previous year. NMFS makes such adjustments consistent with ICCAT limits and when complete catch information for the prior year is available and finalized. The maximum underharvest that a Contracting Party may carry forward from one year to the next is 25 percent of its initial catch quota, which equals 131.75 mt for the United States.

Adjustment of the 2017 Northern Albacore Quota

For 2016, the adjusted quota was 658.75 mt (527 mt plus 131.75 mt of 2015 underharvest carried forward to 2016). The total 2016 northern albacore catch was 249.60 mt, which is 409.15 mt less than the 2016 adjusted quota. Thus, the underharvest for 2016 is 409.15 mt, 131.75 mt of which may be carried forward to the 2017 fishing year. Thus, the adjusted 2017 northern albacore quota is 527 mt plus 131.75 mt, totaling 658.75 mt.

North and South Atlantic Swordfish Annual Quota and Adjustment Process

North Atlantic Swordfish

At the 2016 ICCAT annual meeting, Recommendation 16–03 maintained the North Atlantic swordfish TAC of 10,301 mt dw (13,700 mt ww) through 2017. Of this TAC, the United States' baseline quota is 2,937.6 mt dw (3,907 mt ww) per year. ICCAT Recommendation 16–03 also includes an 18.8 mt dw (25 mt ww) annual quota transfer from the United States to Mauritania and limits underharvest carryover to 15 percent of a Contracting Party's baseline quota. Therefore, the United States may carry over a maximum of 440.6 mt dw (586.0 mt ww) of underharvest from 2016 to 2017. This final rule adjusts the U.S. baseline quota for the 2017 fishing year to account for the annual quota transfer to Mauritania and the 2016 underharvest.

The 2017 North Atlantic swordfish baseline quota is 2,937.6 mt dw (3,907 mt ww). The total 2016 North Atlantic swordfish catch and dead discards totaled 1,144.4 mt dw, which is 2,215 mt dw less than the 2016 adjusted quota of 3,359.4 mt dw. Thus, the North Atlantic swordfish underharvest for 2016 was 2,215 mt dw, and NMFS is carrying forward 440.6 mt dw, the maximum carryover allowed under Recommendation 16–03. The 2,937.6 mt dw baseline quota is reduced by the 18.8 mt dw annual quota transfer to Mauritania and increased by the underharvest carryover of 440.6 mt dw, resulting in a final adjusted North Atlantic swordfish quota for the 2017 fishing year of 3,359.4 mt dw (2,937.6 − 18.8 + 440.6 = 3,359.4 mt dw). From that adjusted quota, 50 mt dw will be allocated to the reserve category for inseason adjustments and research, and 300 mt dw will be allocated to the incidental category, which includes recreational landings and landings by incidental swordfish permit holders, in accordance with regulations at 50 CFR 635.27(c)(1)(i). This would result in an allocation of 3,009.4 mt dw (3,359.4 − 50 − 300 = 3,009.4 mt dw) for the directed category, which would be split equally between two seasons in 2017 (January through June, and July through December) (Table 1).

South Atlantic Swordfish

In 2016, ICCAT Recommendation 16–04 maintained the South Atlantic swordfish TAC at 11,278.2 mt dw (15,000 mt ww) through 2017. Of this, the United States receives 75.2 mt dw (100 mt ww). Recommendation 16–04 limits the amount of South Atlantic swordfish underharvest that can be carried forward from one year to the next, and the United States may carry forward up to 100 percent of its baseline quota (75.2 mt dw). Recommendation 16–04 also included a total of 75.2 mt dw (100 mt ww) of quota transfers from the United States to other countries. These transfers were 37.6 mt dw (50 mt ww) to Namibia, 18.8 mt dw (25 mt ww) to Côte d'Ivoire, and 18.8 mt dw (25 mt ww) to Belize.

U.S. fishermen landed no South Atlantic swordfish in 2016. The adjusted 2016 South Atlantic swordfish quota was 75.1 mt dw due to nominal landings in previous years. Therefore, 75.1 mt dw of underharvest is available to carry over to 2017. NMFS is carrying forward 75.1 mt dw to be added to the 75.2 mt dw baseline quota. The quota is then reduced by the 75.2 mt dw of annual international quota transfers outlined above, resulting in an adjusted South Atlantic swordfish quota of 75.1 mt dw for the 2017 fishing year (Table 1).

TABLE 1—2017 NORTH AND SOUTH ATLANTIC SWORDFISH QUOTAS

	2016	2017
North Atlantic Swordfish Quota (mt dw)		
Baseline Quota	2,937.6	2,937.6
International Quota Transfer	(−)18.8 (to Mauritania)	(−)18.8 (to Mauritania)
Total Underharvest from Previous Year	2,181.6	2,215.0
Underharvest Carryover from Previous Year +	(+) 440.6	(+) 440.6
Adjusted Quota	3,359.4	3,359.4
Quota Allocation:		
Directed Category	3,009.4	3,009.4
Incidental Category	300	300
Reserve Category	50	50
South Atlantic Swordfish Quota (mt dw)		
Baseline Quota	75.2	75.2
International Quota Transfers*	(−)75.2	(−)75.2
Total Underharvest from Previous Year	75.1	75.1
Underharvest Carryover from Previous Year +	75.1	75.1

TABLE 1—2017 NORTH AND SOUTH ATLANTIC SWORDFISH QUOTAS—Continued

	2016	2017
Adjusted quota	75.1	75.1

[+] Allowable underharvest carryover is capped at 15 percent of the baseline quota allocation for the North Atlantic and 75.2 dw (100 mt ww) for the South Atlantic.

[*] Under Recommendation 16–04, the United States transfers 75.2 mt dw (100 mt ww) annually to Namibia (37.6 mt dw, 50 mt ww), Côte d'Ivoire (18.8 mt dw, 25 mt ww), and Belize (18.8 mt dw, 25 mt ww).

Bluefin Tuna Annual Quota and Adjustment Process

Pursuant to Amendment 7, NMFS augments the Reserve category quota to the extent that underharvest from the prior year's adjusted U.S. bluefin tuna quota is available. NMFS makes such adjustments consistent with ICCAT limits and when complete catch information for the prior year is available and finalized. Consistent with the bluefin tuna quota regulations, NMFS may allocate any portion of the Reserve category quota for inseason or annual adjustments to any fishing category quota pursuant to regulatory determination criteria described at § 635.27(a)(8), or for scientific research.

NMFS implemented ICCAT Recommendation 14–05 in the bluefin tuna quota final rule in August 2015 (80 FR 52198, August 28, 2015). That rulemaking implemented Recommendation 14–05, which included a western bluefin tuna TAC of 2,000 mt (for 2015 and 2016) and the recommended annual U.S. baseline quota of 1,058.79 mt. The total annual U.S. quota, including the 25 mt to account for bycatch related to pelagic longline fisheries in the Northeast Distant gear restricted area (NED) is 1,083.79 mt. Any underharvest of a CPC's total quota in a given year may be carried forward to the next year but is limited to 10 percent of the CPC's initial quota allocation (for the United States, its baseline quota plus 25 mt for the NED). ICCAT Recommendation 16–08 extended these provisions through 2017. The baseline annual U.S. bluefin tuna quota of 1,058.79 mt is codified at § 635.27(a) and will remain in effect until changed (for instance, if a new ICCAT western bluefin tuna TAC recommendation is adopted).

Adjustment of the 2016 Bluefin Tuna Reserve Category Quota

The total 2016 bluefin tuna catch was 1,025.10 mt. This total catch includes landings and dead discards. The total catch of 1,025.10 mt is 167.07 mt less than the 2016 adjusted quota of 1,083.79 mt. Per ICCAT Recommendation 16–08, only 10 percent of the total 2016 U.S. quota, or 108.38 mt, of that underharvest may be carried forward to the 2017 fishing year, resulting in a 2017 adjusted quota of 1,192.17 mt (baseline quota of 1,083.79 mt + underharvest carryover of 108.38 mt). The codified Reserve category quota is 24.8 mt. Consistent with the process established in Amendment 7, NMFS augments the Reserve category quota with 108.38 mt in this action. Effective February 28, 2017, NMFS adjusted the Reserve category quota for 2017 to 118 mt by reallocating 138.2 mt of Purse Seine quota to the Reserve category (based on 2016 catch by Purse Seine category participants) and also transferring 45 mt of Reserve category quota to the Longline category (82 FR 12296, March 2, 2017). Effective March 2, 2017, NMFS transferred 40 mt from the Reserve to the General category (82 FR 12747, March 7, 2017). Additionally, effective August 11, 2017, NMFS transferred an additional 30 mt from the Reserve to the Harpoon category (82 FR 38853, August 16, 2017). Thus, as of the effective date of this action (September 18, 2017), the adjusted 2017 Reserve category quota would be 156.38 mt (24.8 + 138.2 − 45 − 40 − 30 + 108.38).

Classification

The Assistant Administrator for NMFS (AA) has determined that this temporary final rule is consistent with the Magnuson-Stevens Act, the 2006 Consolidated Atlantic HMS FMP and its amendments, other provisions of the Magnuson-Stevens Act, ATCA, and other applicable law.

Pursuant to section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(B)), the AA finds that it would be unnecessary and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the reasons described below.

NMFS solicited and accepted public comment on the northern albacore quota implementation and quota adjustment processes, along with the bluefin tuna quota adjustment process, as part of the Amendment 7 rulemaking. Public comments on these provisions in response to the proposed Amendment 7 rule were generally supportive and were addressed in the Response to Comments section of the Amendment 7 final rule. (See comments 18, 19, and 105 at 79 FR 71530–71531 and 71553). Similarly, in the past, North and South Atlantic swordfish quota adjustments were performed through an annual notice and comment rulemaking process. In the 2016 North and South Atlantic Swordfish Quota Adjustment Rule (81 FR 48719, July 26, 2016), NMFS announced the intent to no longer issue proposed and final specifications/rules for North and South Atlantic swordfish quota adjustments in cases where the quota adjustment simply follows previously codified and analyzed formulas. Public comments on this process change were generally supportive. Beginning this year, NMFS will instead issue a temporary final rule to adjust the quota. NMFS will continue to undertake notice and comment rulemaking if adopting new quotas, quota formulas, or otherwise altering conservation and management measures for North and South Atlantic swordfish.

This action applies the formulas which the public received notice of in the earlier actions (Amendment 7 and the 2016 North and South Atlantic Swordfish Quota Adjustment Rule), using the best available data regarding 2016 catch and underharvest and calculating allowable underharvest consistent with ICCAT recommendations. The rulemakings for Amendment 7 and the 2016 North and South Atlantic Swordfish Quota Adjustment Rule specifically provided prior notice of, and accepted public comment on, these formulaic quota adjustment processes and the manner in which they occur. The application of this formula in this action does not have discretionary aspects requiring additional agency consideration and thus it would be unnecessarily duplicative to accept public comment for this action.

There is good cause under U.S.C. 553(d)(3) to waive the 30-day delay in effective date and to make the rule effective upon publication in the **Federal Register**. The fisheries for northern albacore, North and South Atlantic swordfish, and bluefin tuna began on January 1, 2017. NMFS monitors northern albacore, North and South Atlantic swordfish, and bluefin

tuna annual catch and measures the annual catch data against the applicable available quotas. Delaying the effective date of these quota adjustments would complicate the management of the northern albacore, North and South Atlantic swordfish, and bluefin tuna fisheries, all of which rely on management flexibility to respond quickly to fishery conditions to ensure that fishermen have a reasonable opportunity to catch the available quotas. For example, under the northern albacore fishery closure regulations, NMFS must close the fishery when the annual fishery quota is reached. Closure of the fishery based only on the baseline (codified) quota versus the adjusted northern albacore quota could preclude the fishery from harvesting northern albacore that are legally available consistent with the ICCAT recommendations and the 2006 Consolidated HMS FMP, as amended. Adjusting the North and South Atlantic swordfish quota allows the United States to comply with the ICCAT allowance to carry over quota underharvest and the obligation of international quota transfers. Adjusting the bluefin tuna Reserve category as soon as possible provides NMFS the flexibility to transfer quota from the Reserve to other fishing categories inseason after considering the regulatory determination criteria, including fishery conditions at the time of the transfer. The amount of quota currently in the Reserve category is relatively low, and NMFS may need to transfer quota soon in order to reduce the likelihood of fishery closure during the September or subsequent subquota time periods. NMFS could not appropriately adjust the annual quotas for 2017 sooner because the data needed to make the determination did not become available until August, and additional time was needed for agency analysis and consideration of the data.

Additionally, to prevent confusion and potential overharvests, these adjustments should be in place as soon as possible in order to allow the impacted sectors to benefit from any subsequent quota adjustments to the fishing categories, give them a reasonable opportunity to catch available quota, and provide them the opportunity for planning operations accordingly.

This action is being taken under § 635.27(e) and § 635.27(a)(10), and is exempt from review under Executive Order 12866.

This action does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are inapplicable.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: September 13, 2017.

Samuel D. Rauch, III,

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

[FR Doc. 2017–19777 Filed 9–15–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 161020985–7181–02]

RIN 0648–XF654

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area; Correction

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

ACTION: Temporary rule; reallocations; correction.

SUMMARY: NMFS is correcting a temporary rule that reallocated Pacific cod from vessels using jig gear and catcher vessels greater than or equal to 60 feet (18.3 meters) length overall (LOA) using hook-and-line gear to catcher vessels less than 60 feet (18.3 meters) LOA using hook-and-line or pot gear in the Bering Sea and Aleutian Islands management area. The amount reallocated from vessels using jig gear was incorrect.

DATES: Effective September 18, 2017 through 2400 hours, Alaska local time (A.l.t) December 31, 2017, and is applicable beginning August 30, 2017.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Need for Correction

NMFS published the reallocation of Pacific cod on September 5, 2017 (82 FR 41899). The document contains incorrect amounts of Pacific cod to be transferred to catcher vessels less than 60 feet LOA using hook-and-line or pot gear from vessels using jig gear. These corrections will not affect the fishing operations. These corrections are necessary to provide the correct information about the amount of the Pacific cod transferred from vessels using jig gear and eliminate potential avoid confusion by fishery participants.

Correction

In the **Federal Register** of September 5, 2017, (82 FR 41899) in FR Doc. 2017–18733, on page 41900, column 1, paragraph 2, sentences 1 and 2 are corrected to read as follows:

''The Administrator, Alaska Region, NMFS, (Regional Administrator) has determined that jig vessels will not be able to harvest 1,186 mt of the remaining 2017 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(*1*). Therefore, in accordance with § 679.20(a)(7)(iii)(A), NMFS apportions 1,186 mt of Pacific cod to the annual amount specified for catcher vessels less than 60 feet LOA using hook-and-line or pot gear.''

Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement 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 requirement is impracticable and contrary to the public interest. This actions corrects an error that attributed the total amount of Pacific cod being transferred to catcher vessels less than 60 feet LOA using hook-and-line or pot gear from multiple sectors (1,612 mt), rather than the amount of Pacific cod being reallocated from vessels using jig gear (1,186 mt). This correction does not change operating practices in the fisheries. Corrections should be made as soon as possible to avoid confusion for participants in the fisheries.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

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

Dated: September 12, 2017.

Emily H. Menashes,

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

[FR Doc. 2017–19628 Filed 9–15–17; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 82, No. 179
Monday, September 18, 2017

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 927

[Doc. No. AMS–SC–17–0045; SC17–927–1 PR]

Pears Grown in Oregon and Washington; Increased Assessment Rate for Processed Pears

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement a recommendation from the Processed Pear Committee (Committee) to increase the assessment rate established for the 2017–2018 and subsequent fiscal periods from $7.00 to $8.00 per ton of ''summer/fall'' pears for canning. The Committee locally administers the marketing order and is comprised of growers, handlers, and processors of processed pears grown in Oregon and Washington. Assessments upon processed pear handlers are used by the Committee to fund reasonable and necessary expenses of the marketing order. The fiscal period begins July 1 and ends June 30. The assessment rate would remain in effect indefinitely unless modified, suspended or terminated.

DATES: Comments must be received by October 3, 2017.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or internet: *http://www.regulations.gov.* Comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.* All comments submitted in response to this proposed rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Teresa Hutchinson or Gary Olson, Northwest Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (503) 326–2724, Fax: (503) 326–7440, or Email: *Teresa.Hutchinson@ams.usda.gov* or *GaryD.Olson@ams.usda.gov.*

Small businesses may request information on complying with this regulation by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Richard.Lower@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Order No. 927, as amended (7 CFR part 927), regulating the handling of pears grown in Oregon and Washington, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this proposed rule in conformance with Executive Orders 13563, and 13175.

This proposed rule does not meet the definition of a significant regulatory action contained in section 3(f) of Executive Order 12866, and is not subject to review by the Office of Management and Budget (OMB). Additionally, because this proposed rule does not meet the definition of a significant regulatory action, it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled, ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled, 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the order now in effect, Oregon and Washington pear handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate, as proposed herein, would be applicable to all assessable ''summer/fall'' pears for canning beginning July 1, 2017, and continue until amended, suspended, or terminated.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This proposed rule would increase the assessment rate established for the Committee for the 2017–2018 and subsequent fiscal periods from $7.00 to $8.00 per ton for ''summer/fall'' pears for canning handled under the order. The assessment rate for ''winter'' and ''other'' pears for processing would remain unchanged at zero.

The order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are growers, handlers, and processors of Oregon and Washington processed pears. They are familiar with the Committee's needs, and with the costs for goods and services in their local area, and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2012–2013 and subsequent fiscal periods, the Committee recommended, and the USDA approved,

the following three base rates of assessment: (a) $7.00 per ton for any or all varieties or subvarieties of pears for canning classified as ''summer/fall'', excluding pears for other methods of processing; (b) $0.00 per ton for any or all varieties or subvarieties of pears for processing classified as ''winter''; and (c) $0.00 per ton for any or all varieties or subvarieties of pears for processing classified as ''other''. The assessment on ''summer/fall'' pears applies only to pears for canning and excludes pears for other methods of processing defined in § 927.15, as pears for concentrate, freezing, dehydrating, pressing, or in any other way to convert pears into a processed product. This rate continues in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on May 31, 2017, and unanimously recommended expenditures of $800,150 for the 2017–2018 fiscal period. In comparison, the previous fiscal period's budgeted expenditures were $855,268. The Committee also unanimously recommended an assessment rate of $8.00 per ton for ''summer/fall'' pears for canning. The recommended assessment rate of $8.00 is $1.00 higher than the rate currently in effect.

The major expenditures recommended by the Committee for the 2017–2018 fiscal period include $605,606 for promotion and paid advertising, $147,694 for research, $25,000 for administration, and $21,850 for Committee expenses. In comparison, major expenditures for the 2016–2017 fiscal period included $682,130 for promotion and paid advertising, $127,288 for research, $25,000 for administration, and $20,850 for Committee expenses.

Committee members estimate the 2017–2018 crop to be 100,000 tons, which would be less than the 2016–2017 production of 103,000 tons by 3,000 tons. Pear production tends to fluctuate due to the effects of weather, pollination, and tree health. Because of the anticipated smaller crop, the Committee recommended to both lower budgeted expenses and increase the assessment rate for ''summer/fall'' pears in order to align assessment income with expenses.

The Committee's recommended assessment rate was derived by dividing the 2017–2018 anticipated expenses by the expected shipments of ''summer/fall'' pears for canning, while also taking into account interest income and the Committee's monetary reserve. Shipments of ''summer/fall'' pears for canning for 2017–2018 are estimated at 100,000 tons, which should provide $800,000 (100,000 tons × $8.00 per ton) in assessment income. The projected revenue from handler assessments, together with funds from interest income, would be adequate to cover the 2017–2018 budgeted expenses of $800,150.

Section 927.42(a) of the order authorizes the Committee to carry over excess funds into subsequent fiscal periods as a reserve, provided that funds do not exceed approximately one year's operational expenses. The Committee expects its monetary reserve, which was estimated to be $544,990 at the end of the 2016–2017 fiscal period, to remain unchanged during the 2017–2018 fiscal period. That amount would be within the provisions of the order and would provide the Committee with greater ability to absorb fluctuations in assessment income and expenses into the future.

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2017–2018 budget, and those for subsequent fiscal periods, would be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 1,200 growers of processed pears in the regulated production area and approximately 50 processed pear handlers subject to regulation under the order. Small agricultural producers are defined by the Small Business Administration (SBA)(13 CFR 121.201) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $7,500,000.

According to the Noncitrus Fruits and Nuts 2016 Summary issued in June 2017 by the National Agricultural Statistics Service, the total farm-gate value of ''summer/fall'' processed pears grown in Oregon and Washington for 2016 was $27,874,000. Based on the number of ''summer/fall'' processed pear growers in the Oregon and Washington, the average gross revenue for each grower can be estimated at approximately $23,228 ($27,874,000 divided by 1,200). Furthermore, based on Committee records, the Committee has estimated that all of the Oregon-Washington pear handlers currently ship less than $7,500,000 worth of processed pears each on an annual basis. From this information, it is concluded that the majority of growers and handlers of Oregon and Washington processed pears may be classified as small entities.

This proposed rule would increase the assessment rate established for the Committee, and collected from handlers, for the 2017–2018 and subsequent fiscal periods from $7.00 to $8.00 per ton for ''summer/fall'' pears for canning. The Committee unanimously recommended 2017–2018 expenditures of $800,150 and an assessment rate of $8.00 per ton for ''summer/fall'' pears for canning. The proposed assessment rate of $8.00 is $1.00 higher than the rate established for the 2012–2013 fiscal period. Because of the anticipated smaller crop, the Committee recommended to both lower budgeted expenses and increase the assessment rate for ''summer/fall'' pears in order to align assessment income with expenses.

The 2017–2018 estimate of ''summer/fall'' pears for canning is 100,000 tons. At the proposed $8.00 per ton assessment rate, the Committee anticipates that assessment income of approximately $800,000, along with interest income, would be adequate to cover budgeted expenses for the 2017–

2018 fiscal period of $800,150. With the proposed assessment rate and budgeted expense level, the Committee does not anticipate utilizing any funds from the monetary reserve. As such, reserve funds are estimated to be $544,990 at the end of the 2017–2018 fiscal period on June 30, 2018. That reserve level is within the maximum permitted by the order of approximately one fiscal period's operational expenses (§ 927.42(a)).

The major expenditures recommended by the Committee for the 2017–2018 fiscal period include $605,606 for promotion and paid advertising; $147,694 for research; $25,000 for administration; and $21,850 for Committee expenses. In comparison, major expenditures for the 2016–2017 fiscal period included $682,130 for promotion and paid advertising; $127,288 for research; $25,000 for administration; and $20,850 for Committee expenses.

The Committee discussed alternatives to this action, including recommending alternative expenditure levels and assessment rates. Although lower assessment rates were considered, none were selected because they would not have generated sufficient income to administer the order. Similarly, the Committee did not recommend lower levels of budgeted expenditures than proposed herein because it would have reduced the effectiveness of the program.

A review of historical data and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for the 2017–2018 fiscal period could range between $325 and $346 per ton of ''summer/fall'' processed pears. Therefore, the estimated assessment revenue for the 2017–2018 fiscal period, as a percentage of total grower revenue could range between 2.31 and 2.46 percent.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to growers. However, these costs would be offset by the benefits derived by the operation of the order.

In addition, the Committee's meeting was widely publicized throughout the processed pear industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the May 31, 2017, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0189 (Generic Fruit Crops). No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This proposed rule would not impose any additional reporting or recordkeeping requirements on either small or large processed pear handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this action.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/rules-regulations/moa/small-businesses.* Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 15-day comment period is provided to allow interested persons to respond to this proposed rule. Fifteen days is deemed appropriate because handlers are aware of this action, which was unanimously recommended by the Committee at a public meeting.

List of Subjects in 7 CFR Part 927

Marketing agreements, Pears, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 927 is proposed to be amended as follows:

PART 927—PEARS GROWN IN OREGON AND WASHINGTON

■ 1. The authority citation for 7 CFR part 927 continues to read as follows:

Authority: 7 U.S.C. 601–674.

Subpart A—[AMENDED]

■ 2. Designate the subpart labeled ''Order Regulating Handling'' as subpart A.

Subpart B—[Administrative Provisions]

■ 3. Designate the subpart labeled ''Rules and Regulations'' as subpart B and revise the heading as shown above.

■ 4. Amend § 927.237 by revising the introductory text and paragraph (a) to read as follows:

§ 927.237 Processed pear assessment rate.

On and after July 1, 2017, the following base rates of assessment for pears for processing are established for the Processed Pear Committee:

(a) $8.00 per ton for any or all varieties or subvarieties of pears for canning classified as ''summer/fall'' excluding pears for other methods of processing;

* * * * *

Dated: September 12, 2017.

Bruce Summers,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2017–19615 Filed 9–15–17; 8:45 am]

BILLING CODE 3410–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2017–0435; FRL–9967–51–Region 6]

Approval and Promulgation of Implementation Plans; Arkansas; Revisions to Minor New Source Review Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is proposing to approve revisions to the Arkansas State Implementation Plan (SIP) minor New Source Review (NSR) program submitted on July 26, 2010, and March 24, 2017, including supplemental information provided on November 30, 2015, May 26, 2016, and July 27, 2017. Specifically, we are proposing to approve revisions that revise the minor NSR permitting thresholds and *de minimis* levels, as well as, additional non-substantive revisions. This proposed action is consistent with the requirements of section 110 of the CAA.

DATES: Written comments must be received on or before October 18, 2017.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2017–0435, at *http://www.regulations.gov* or via email to *mohr.ashley@epa.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the Web, cloud, or other file sharing system). For additional submission methods, please contact Ashley Mohr, 214–665–7289, *mohr.ashley@epa.gov.* For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

Docket: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at the EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available at either location (*e.g.,* CBI).

FOR FURTHER INFORMATION CONTACT: Ashley Mohr, 214–665–7289, *mohr.ashley@epa.gov.* To inspect the hard copy materials, please schedule an appointment with Ms. Ashley Mohr or Mr. Bill Deese at 214–665–7253.

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

I. Background

The EPA is proposing approval of SIP revisions submitted by Arkansas on July 26, 2010, and March 24, 2017. The proposed revisions addressed in this action modify the Chapter 4 minor New Source Review rules enacted at Regulation Number 19 (Reg. 19), specifically the following provisions are addressed in this action: Reg. 19.401, 19.407(C)(2)(a) and (b), and 19.417. The revisions include revisions to the minor NSR permitting thresholds and *de minimis* levels.

Our proposed approval of the revisions to the minor NSR permitting thresholds and *de minimis* levels does not remove, nor reduce, the federal and SIP approved requirements that each NSR permitting action authorizing emissions greater than the permitting thresholds provide an opportunity for the public to review and comment on the information submitted by the permit applicant. Nor does our action remove or reduce the federal and SIP approved requirements that as part of these permitting actions the public also have an opportunity to review and comment on the required Arkansas Department of Environmental Quality's (ADEQ) analysis and determination that the construction or modification of the facility will not interfere with attainment or maintenance of a national ambient air quality standard (NAAQS). Our action also does not remove the requirement that ADEQ's approval of all minor NSR permit actions include a technical analysis and determination that the change will not interfere with NAAQS attainment or maintenance.

A. July 26, 2010 Submittal

On July 26, 2010, Arkansas submitted revisions to the SIP that included changes to the Regulations of the Arkansas Plan of Implementation for Air Pollution Control enacted at Reg. 19, Chapters 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, and Appendix A. These revisions were adopted by the Arkansas Pollution Control & Ecology Commission on December 5, 2008, and became effective on January 25, 2009.

The EPA is proposing to take action only on the revisions to Chapter 4, Reg. 19.401, 19.407(C)(2)(a) and (b), and 19.417 contained in the July 26, 2010 submittal. The EPA has already taken action on other elements of this submittal as follows: (1) Regulation 19, Chapter 1, approved by EPA on 4/3/2015 (See 80 FR 11573); (2) Regulation 19, Chapter 2, approved by EPA on 4/3/2015 (See 80 FR 11573); (3) Regulation 19, Chapter 5, approved by EPA on 4/3/2015 (See 80 FR 11573; (4) Regulation 19, Chapter 6, approved by EPA on 4/3/2015 (See 80 FR 11573); (5) Regulation 19, Chapter 7, approved by EPA on 4/3/2015 (See 80 FR 11573); (6) Regulation 19, Chapter 9, approved by EPA on 4/2/2013 (see 78 FR 19596); (7) Regulation 19, Chapter 10, approved by EPA on 4/3/2015 (See 80 FR 11573); (8) Regulation 19, Chapter 11, approved by EPA on 4/3/2015 (See 80 FR 11573); (9) Regulation 19, Chapter 13, approved by EPA on 4/3/2015 (See 80 FR 11573); (10) Regulation 19, Chapter 14, approved by EPA on 4/17/2014 (see 79 FR 21631); and (11) Regulation 19, Chapter 15, approved by EPA on 3/12/2012 (see 77 FR 14604). The EPA will address in a future action the remaining portions of the July 26, 2010 submittal, which are not directly related to the minor NSR permitting thresholds and *de minimis* levels.

B. March 24, 2017 Submittal

On March 24, 2017, Arkansas submitted revisions to the SIP that included changes to the Regulations of the Arkansas Plan of Implementation for Air Pollution Control enacted at Reg. 19, Chapters 1, 2, 3, 4, 5, 7, 9, 11, 13, 14, 15, Appendix A and Appendix B. These revisions were adopted by the Arkansas Pollution Control & Ecology Commission on February 26, 2016, and became effective on March 14, 2016.

The EPA is proposing to take action only on Chapter 4, Reg. 19.401 and 19.407(C)(2)(a) and (b). As necessary, the EPA will address the remaining portions of the March 24, 2017 submittal, which are not directly related to the minor NSR permitting thresholds and *de minimis* levels, as part of separate actions.

A summary of the EPA's evaluation of the submitted revisions and the basis for our proposed approval is included in this rulemaking. The accompanying Technical Support Document (TSD) includes a detailed evaluation of the submittals and our approval rationale. The TSD may be accessed online at *www.regulations.gov,* Docket No. EPA–R06–OAR–2017–0435. As previously discussed, the portions of July 26, 2010 and March 24, 2017 SIP submittals evaluated in this action are those related to the revised minor NSR permitting thresholds and *de minimis* levels. While the TSD does include a line-by-line evaluation of each revised section addressed in our proposed approval, the following section focuses on the revised permitting thresholds and *de minimis* levels and the EPA's evaluation associated with those revisions.

II. The EPA's Evaluation

A. Revisions to Minor NSR Permitting Thresholds and De Minimis Levels

The Arkansas SIP approved minor NSR program contains permitting thresholds and *de minimis* levels that are applicable to the state's minor NSR permitting program. Both the permitting thresholds and *de minimis* levels serve to exempt certain stationary sources or proposed changes at stationary sources from minor NSR permitting

requirements. The permitting thresholds found in Reg. 19.401 serve to determine which stationary sources are required to obtain a minor NSR permit. Any sources with emissions equal to or greater than the specified permitting thresholds are required to obtain a permit. A *de minimis* change, as stated in Reg. 19.407(C), is a change at an existing source that will result in trivial environmental impacts and requires minimal judgement to establish permit requirements for the change. A *de minimis* change is not a title I modification, as stated in the Reg. 19, Chapter 2 definition for ''title I modification.'' The *de minimis* levels found in Reg. 19.407(C)(2) are used to determine if a proposed change at an existing permitted source may qualify as a *de minimis* change under Reg. 19. Under the SIP approved Arkansas minor NSR program, a *de minimis* change is exempt from minor NSR permitting requirements, including public notice requirements, but remains subject to the remaining applicable minor NSR requirements contained in the NSR regulation. For example, in accordance with Reg. 19.407(C)(6) requirements a *de minimis* change must be reviewed and approved by ADEQ prior to implementation by a stationary source. To seek a *de minimis* change approval, the permitted source must submit an application to ADEQ to demonstrate that the proposed change qualifies as *de minimis* and, therefore, qualifies for exemption from minor NSR permitting requirements. ADEQ reviews the application to ensure that the proposed change is *de minimis* and does not include any of the following changes found in Reg. 19.407(C)(4) that do not meet the definition of *de minimis:* (1) Any increase in the permitted emission rate without a corresponding physical change or change in the method of operation at the source; (2) any change which would result in a violation of the CAA; (3) any change seeking to change a case-by-case determination of an emission limitation established pursuant to Best Available Control Technology, § 112(g), § 112(i)(5), § 112(j), or § 111(d) of the CAA; (4) a change that would result in a violation of any provision of Reg. 19; (5) any change in a permit term, condition, or limit that a source has assumed to avoid an applicable requirement to which the source would otherwise be subject; (6) any significant change or relaxation to existing testing, monitoring, reporting, or recordkeeping requirements; or (7) any proposed change which requires more than minimal judgment to determine eligibility. In addition, multiple applications for *de minimis* changes that are concealing a larger modification would not be considered a *de minimis* change. As required by Reg. 19.405(A)(1), ADEQ also reviews the *de minimis* change applications submitted under Reg. 19, Chapter 4 to ensure that the proposed change at the stationary source will not result in the interference with attainment or maintenance of a NAAQS. If ADEQ determines that the proposed change does not qualify as *de minimis,* the *de minimis* change application is denied and the source must seek authorization via the appropriate NSR permit modification with public notice and reconstruction requirements. Otherwise if the *de minimis* action is approved by ADEQ, the source can make the proposed change immediately following receipt of the *de minimis* change approval. Any revisions to the existing minor NSR permit that may be necessary as a result of a *de minimis* change will be incorporated by ADEQ as expeditiously as possible as a *de minimis* modification.

As previously stated, both the minor NSR permitting thresholds and *de minimis* levels approaches are approved into the current Arkansas SIP. As part of the submitted SIP revisions, Arkansas is proposing to revise the values for minor NSR permitting thresholds and *de minimis* levels for CO, NO_X, SO_2, VOC, and PM_{10}. In addition, Arkansas is proposing to add minor NSR permitting thresholds for $PM_{2.5}$ and *de minimis* levels for PM and $PM_{2.5}$, which do not exist in the current SIP approved minor NSR permitting program. The following table summarizes the current and revised minor NSR permitting thresholds and *de minimis* levels.

TABLE 1—CURRENT SIP APPROVED AND REVISED MINOR NSR PERMITTING THRESHOLDS AND DE MINIMIS LEVELS

Pollutant	Minor NSR permitting thresholds (tpy)		Minor NSR de minimis levels (tpy)	
	Current SIP approved value	Revised value	Current SIP approved value	Revised value
CO	40	75	5	75
NO_X	25	40	5	40
SO_2	25	40	5	40
VOC	25	40	20	40
PM	None	None	None	25
PM_{10}	10	15	5	15
$PM_{2.5}$	None	10	None	10

As shown in the previous table, the revised permitting thresholds and *de minimis* levels are less stringent than the values contained in the current Arkansas SIP. Therefore, as part of our evaluation, we reviewed the proposed revisions, along with supporting information provided by Arkansas, to determine if the proposed revisions to the minor NSR permitting thresholds and *de minimis* levels will interfere with attainment, reasonable further progress or any other applicable requirements of the Act. That evaluation, in accordance with section 110(l) of the Clean Air Act, is discussed in the following section.

ADEQ does require, in accordance with Reg. 18.315, that facilities that are exempt from minor NSR permitting based on the revised permitting thresholds but have emissions greater than the previous SIP approved permitting thresholds register with the Department prior to operation, construction, or modification. In addition, the *de minimis* changes, which are exempt from minor NSR permitting requirements, are required to meet all remaining, applicable minor NSR provisions contained in Reg. 19, Chapter 4, including the requirements for ADEQ's technical review and determination that the proposed change will not interfere with the attainment or maintenance of a NAAQS.

B. Analysis Under Section 110(l) of the CAA

As part of our evaluation of the July 26, 2010 and March 24, 2017 submittals under section 110(l), we have examined: (1) The scope of impacts resulting from the proposed revisions, (2) the current status of ambient air quality in Arkansas, and (3) the impacts of the revised thresholds on ambient air quality via air monitoring and air modeling data.

As part of the July 26, 2010 SIP revision submittal, ADEQ determined that the number of currently permitted minor NSR facilities statewide that would not be required to be permitted under the revised minor NSR permitting thresholds was twenty (20). ADEQ also determined the total permitted emissions of CO, NO_X, SO_2, VOC, and PM_{10} from these 20 facilities and compared those permitted emissions with the statewide emission inventory on a pollutant-by-pollutant basis. On a percentage basis, the emissions that would be exempt from permitting at these 20 facilities based on the revised minor NSR permitting thresholds were 0.006% to 0.125% of the statewide emission totals. On July 27, 2017, ADEQ provided a supplement to the July 2010 and March 2017 SIP revision submittals, which included similar CO, NO_X, SO_2, VOC, and PM_{10} emissions information for the *de minimis* changes approved for facilities in calendar year (CY) 2016. EPA reviewed the emissions information and determined that the emissions increases associated with the approved *de minimis* changes exempt from minor NSR permitting based on the revised *de minimis* levels were 0.0005% to 0.019% of the statewide emissions inventory. While this analysis was limited to the most recent calendar year, conservative scaling of the CY2016 emissions to account for the approximate 8½ years that the revised *de minimis* levels have been effective in the state regulations results in total emissions that are still much less than 1% of the total statewide emissions inventory. In addition, the analysis of the *de minimis* actions did not account for any emissions decreases that occurred as part of the approved *de minimis* changes. As shown in these analyses, the emissions exempted from minor NSR permitting requirements in Arkansas as a result of the revised minor NSR permitting thresholds and *de minimis* levels is limited in scope and makes up a small portion of the statewide emissions inventory.

On November 30, 2015, ADEQ provided supplemental information for the July 26, 2010 SIP revision submittal. The November 30, 2015 supplement included a monitoring trends analysis that examined statewide ambient air quality data since the adoption of the revised minor NSR permitting thresholds and *de minimis* levels in 2008 for CO, NO_X, SO_2, VOC, and PM_{10}. This supplemental air monitoring trends report is available in the docket and may be accessed online at *www.regulations.gov,* Docket No. EPA–R06–OAR–2017–0435. With the exception of the ozone DVs at the Springdale, Arkansas monitor located in Washington County, the DVs remain unchanged or show downward trends since the 2008 adoption of the increased minor NSR permitting thresholds and *de minimis* levels. In the November 30, 2015 supplement, ADEQ did further evaluation of the Springdale monitor and determined that the increases in the monitored ozone DVs at this monitor are likely due to the increases in mobile emissions in the Fayetteville-Springdale-Rogers MSA as a result of rapid population growth in that area.[1] Based on the ambient monitoring trend analysis, it does not appear that the increased minor NSR permitting thresholds and *de minimis* levels have negatively impacted ambient air quality or interfered with the attainment of the NAAQS. In fact, for several pollutants the ambient air quality has shown continued improvements as manifested in the decreases in monitored DVs during this period, and currently Arkansas does not have any areas classified as nonattainment for any NAAQS.

In addition to evaluating the scope of sources/emissions exempted from minor NSR permitting requirements and the ambient air monitoring trends following the adoption of the increased permitting thresholds and *de minimis* levels, as described in the March 24, 2017 SIP submittal ADEQ also conducted air quality modeling to examine the impacts of emissions increases at the level of the revised minor NSR permitting thresholds and *de minimis* levels. The modeling analysis was a combined photochemical/dispersion modeling analysis using the Community Multiscale Air Quality (CMAQ) model and the AMS/EPA Regulatory Model Improvement Committee (AERMIC) model (AERMOD). ADEQ employed this combined modeling approach in an effort to look at both regional and local scale impacts from emissions equal to the revised permitting thresholds and *de minimis* levels for VOC, NO_X, SO_2, CO, PM_{10}, and $PM_{2.5}$. An air quality modeling report detailing the modeling approaches and associated model results was submitted as part of the March 24, 2017 SIP revision submittal. This report is available in the docket and may be accessed online at *www.regulations.gov,* Docket No. EPA–R06–OAR–2017–0435. The CMAQ regional modeling was based on a previous statewide modeling effort conducted for the 2008 base year and the 2008/2015 future year scenarios. For the minor NSR thresholds analysis, the future year (2015) emissions inventory was modified to include eight hypothetical point sources that were distributed throughout the state's Air Quality Control Regions. In order to reflect a generic, representative source, the stack parameters for the hypothetical sources were set equal to median values based on the 2011 National Emissions Inventory for Arkansas sources. The emission rates for each of the hypothetical sources were set equal to the minor NSR permitting thresholds/*de minimis* levels. While the regional CMAQ modeling analysis did show increases in modeled concentrations resulting from the addition of the hypothetical sources, the modeled impacts do not show impacts that affect the attainment and maintenance of the NAAQS. To examine local or near-field impacts, additional modeling of the eight hypothetical sources was conducted using AERMOD. Similar to the regional modeling, these sources were modeled with emission rates equal to the minor NSR permitting thresholds/*de minimis* levels and stack parameters were set equal to median stack parameter based on the 2011 NEI data. The daily AERMOD-derived concentrations were added to the CMAQ-derived concentrations for the same location, using the CMAQ values as ''background.'' The values determined for the statewide daily maximum impacts are expected to represent the near-field concentrations assuming worst-case impacts from threshold emission increases at a range of locations throughout Arkansas. The modeled impacts from the near-field modeling analysis are much less than the NAAQS for all pollutants and averaging periods indicating that near-field impacts associated with emissions equal to the proposed minor NSR thresholds are not expected to result in NAAQS exceedances. As with the CMAQ-only regional modeling, the combined AERMOD/CMAQ modeling analysis does show increases in

[1] ADEQ's November 30, 2015 supplement stated that the population of the Fayetteville-Springdale-Rogers MSA has grown by over 65,000 people in the 2007–2014 timeframe.

modeled concentrations throughout the state, and the associated future year DVs are also increased. However, the calculated future year DVs were all less than the associated NAAQS. In addition, most pollutants show decreased DVs in the future year case as compared with the current year DVs.

Based on our evaluation of the analyses conducted by ADEQ to support the proposed minor NSR permitting thresholds and *de minimis* levels, we find that the increases in these values are not expected to interfere with attainment or reasonable further progress or any other applicable requirement of the Act. The scope of affected sources, permit actions, and the associated emissions that would be exempt from minor NSR permitting requirements based on the revised permitting thresholds and *de minimis* levels is a very small fraction of the statewide emissions inventory. In addition, since implementing the increased permitted thresholds/*de minimis* levels in 2008 for CO, VOC, NO_X, SO_2, and PM_{10}, air quality in Arkansas has not been negatively impacted, and in many cases ambient concentrations have shown overall decreasing trends. We also find that the modeling analysis provided by ADEQ further supports the state's finding that sources with emissions less than the revised minor NSR permitting thresholds and *de minimis* levels are not anticipated to have impacts that would cause or contribute to an exceedance of the NAAQS. In addition, *de minimis* changes are still required to meet minor Source Review requirements contained in Reg. 19, Chapter 4 including a demonstration that the proposed modification will not interfere with the attainment or maintenance of a NAAQS on a case-by-case basis. Therefore, the EPA's evaluation finds that the proposed revisions to the Arkansas SIP related to the revised minor NSR permitting thresholds and *de minimis* levels are consistent with the requirements found in Section 110(l) further supporting our proposed approval of the revisions included in the July 26, 2010 and March 24, 2017 submittals that are evaluated in this action.

III. Proposed Action

The EPA proposes approval of the identified sections of the revisions to the minor NSR permitting program as submitted as revisions to the Arkansas SIP on July 26, 2010, and March 24, 2017, including supplement information submitted on November 30, 2015, May 26, 2016, and July 27, 2017. The EPA has made a determination in accordance with the CAA and the EPA regulations at 40 CFR 51.160–51.165. Therefore, under section 110 and part C of the Act, and for the reasons presented above and in our accompanying TSD, the EPA proposes to approve the following revisions to the Arkansas SIP that submitted on July 26, 2010, and March 24, 2017:

- Revisions to Reg. 19.407 (submitted 07/26/2010 and 03/24/2017);
- Revisions to Reg. 19.407(C)(2)(a) and (b) (submitted 07/26/2010 and 03/24/2017); and
- Revisions to Reg. 19.417 (submitted 07/26/2010).

As previously stated, this proposed action does not remove or modify the existing federal and state requirements that each NSR permit action issued by ADEQ include an analysis completed by the Department and their determination that the proposed construction or modification authorized by the permit action will not interfere with attainment or maintenance of a national ambient air quality standard.

IV. Incorporation by Reference

In this action, we are proposing to include in a final rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, we are proposing to incorporate by reference revisions to the Arkansas regulations as described in the Proposed Action section above. We have made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the EPA Region 6 office.

V. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993), 13563 (76 FR 3821, January 21, 2011) and 13771 (82 FR 9339, February 2, 2017);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

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

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

Dated: September 12, 2017.

Samuel Coleman,

Acting Regional Administrator, Region 6.

[FR Doc. 2017–19716 Filed 9–15–17; 8:45 am]

BILLING CODE 6560–50–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1816, 1832, and 1852

[NFS Case 2017–N014]

RIN 2700–AE39

NASA Federal Acquisition Regulation Supplement: Revised Voucher and Invoice Submission & Payment Process

AGENCY: National Aeronautics and Space Administration.

ACTION: Proposed rule.

SUMMARY: NASA is proposing to amend the NASA Federal Acquisition Regulation Supplement (NFS) to implement revisions to the voucher and invoice submittal and payment process. These revisions are necessary in order for NASA to comply with the Office of Management and Budget (OMB) issued Memorandum M–15–19, which directed federal agencies to transition to electronic invoicing for appropriate federal procurements by the end of fiscal year 2018.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before November 17, 2017, to be considered in the formation of the final rule.

ADDRESSES: Submit comments identified by NFS Case 2017–N014, using any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by entering ''NFS Case 2017–N014'' under the heading ''Enter keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''NFS Case 2017–N014.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''NFS Case 2017–N014'' on your attached document.
- *Email: John.J.Lopez@nasa.gov.* Include NFS Case 2017–N014 in the subject line of the message.
- *Fax:* (202) 358–3082.
- *Mail:* National Aeronautics and Space Administration, Headquarters, Office of Procurement, Contract and Grant Policy Division, Attn: John J. López, LP–011, 300 E. Street SW., Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Mr. John J. Lopez, NASA HQ, Office of Procurement, Contract and Grant Policy Division, LP–011, 300 E Street SW., Washington, DC 20456–0001. Telephone 202–358–3740; facsimile 202–358–3082.

SUPPLEMENTARY INFORMATION:

I. Background

NASA is proposing to revise the NFS to implement revisions to the voucher submittal and payment process. These revisions are necessary in order for NASA to comply with the Office of Management and Budget (OMB) issued Memorandum M–15–19, which directed federal agencies to transition to electronic invoicing for appropriate federal procurements by the end of fiscal year 2018. In Fiscal Year 2016, NASA revised their voucher submission and payment process to electronically process cost type vouchers under cost-reimbursement type contracts. As part of NASA's goal to have all contract payments processed electronically by 2018, this proposed rule revises NASA's submission and payment process to have invoices for fixed price contracts submitted electronically.

II. Discussion

Sections of the NFS are being revised to implement changes to NASA's voucher and invoice submission and payment process. Specifically, NASA is proposing the following changes:

- Revise the clause prescription at 1816.506–70(b) and associated clause at 1852.216–80(i) to require contractors to submit task order progress reports for all contract types.
- Revise clause prescription at 1832.908–70 to include invoices.
- Add alternate clause at 1852.232–80(i).
- Revise clause at 1852.232–80(c)(2) to list relevant back-up documentation required to be submitted with invoices and fee vouchers in order for the contracting officers to review and approve them.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

NASA does not expect this rulemaking to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the guidance will not create additional burden to the contractor but rather the rulemaking is intended to update the current voucher and invoice submission process at NASA resulting in fewer voucher/invoice rejections, rework, and payment delays. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

NASA is proposing to revise the NFS to implement revisions to the voucher and invoice submittal and payment process. These revisions are necessary in order for NASA to comply with Office of Management and Budget (OMB) Memorandum M–15–19, which directed federal agencies to transition to electronic invoicing for appropriate federal procurements by the end of fiscal year 2018.

The objective of this rulemaking is to remove the outdated NFS payment clause and associated prescription relative to the NASA voucher and invoice submittal and payment process and replace with a new clause that will revamp NASA's voucher and invoice submission and payment process to ensure the continued prompt payment to its suppliers. The revision will also minimize cost voucher and invoice submission and payment delays to NASA suppliers as well the potential accrual of Government interest payments to contractors.

This proposed rule would apply to contractor requests for payment under all contract types. An analysis of data in the Federal Procurement Data System (FPDS) revealed that cost reimbursement and fixed priced contracts are primarily awarded to small businesses. FPDS data compiled over the past three fiscal years (FY2014 through FY2016) showed an average of 76,675 NASA contract actions, of which 45,011 (approximately 59%) were awarded to small businesses. However, there is no significant economic or administrative cost impact to small or large businesses because fee vouchers and invoices previously processed manually will be processed electronically. NASA anticipates that the rulemaking will have a positive benefit in the way of fewer voucher rejections, rework, and payment delays. In FY16, NASA processed approximately 55,000 vendor payment requests (invoice/voucher), which are

currently received by various means (70% by email, 15% by mail, 2% by fax, 13% by an electronic secure file transfer). NASA's current payment request process for fee vouchers and invoices requires manual intervention at almost every step in the process. Manual intervention decreases speed and accuracy and adds to the cost per invoice/voucher. This rulemaking will further automate the processing of contract payments thus reducing processing delays, input errors, rework, interest penalties, which all add to the cost to process each invoice and voucher. The proposed rule does not contain additional reporting requirements, recordkeeping, or other compliance requirements.

The proposed rule does not duplicate, overlap, or conflict with any other Federal rules. No alternative approaches were considered, because this approach will have minimal impact on small entities.

NASA invites comments from small business concerns and other interested parties on the expected impact of this rulemaking on small entities. NASA will also consider comments from small entities concerning the existing regulations in subparts affected by this proposed rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (NFS Case 2017–N014), in correspondence.

V. Paperwork Reduction Act

The proposed rule contains information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35; however, these changes to the NFS do not impose additional information collection requirements to the paperwork burden previously approved under OMB Control Number 9000–0070, entitled Payments—FAR Sections Affected: 52.232–1 thru 52.232–4 and 52.232–6 thru 52.232–11.

List of Subjects in 48 CFR Parts 1816, 1832, and 1852

Government procurement.

William Roets,

Director, Contract and Grant Management Division.

Accordingly, 48 CFR parts 1816, 1832, and 1852 are proposed to be amended as follows:

■ 1. The authority citation for parts 1816, 1832, and 1852 continues to read as follows:

Authority: 51 U.S.C. 20113(a) and 48 CFR chapter 1.

PART 1816—TYPES OF CONTRACTS

■ 2. Revise 1816.506–70 to read as follows:

1816.506–70 NASA contract clause.

Insert the clause at 1852.216–80, Task Ordering Procedure, in solicitations and contracts when an indefinite-delivery, task order contract is contemplated. The clause is applicable to both fixed-price and cost-reimbursement type contracts. The contracting officer shall use the clause with its—

(a) Alternate I, if the cost type, fixed-price with prospective price redetermination, or fixed-price incentive contract does not include a NASA Form 533M reporting requirements; or

(b) Alternate II, if a fixed price contract is contemplated.

PART 1832—CONTRACT FINANCING

■ 3. Revise 1832.908–70 to read as follows:

1832.908–70 Submission of vouchers/invoices.

Insert clause 1852.232–80, Submission of Vouchers/Invoices for Payment, in all solicitations and contracts.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1852.216–80 [Amended]

■ 4. Amend 1852.216–80 by revising ALTERNATE I and adding ALTERNATE II to read as follows:

1852.216–80 Task ordering procedure.

* * * * *

Alternate I (Date)

As prescribed in 1816.506–70(a), insert the following paragraph (i):

(i) Contractor shall submit progress reports, as required. When required, the reports shall contain, at a minimum, the following information:

(1) Contract number, task order number, and date of the order.

(2) Total estimated dollar amount of task order(s).

(3) Cost and hours incurred to date for each issued task order.

(4) Costs and hours estimated to complete each issued task order.

(5) Significant issues/problems associated with a task order.

(6) Cost summary of the status of all task orders issued under the contract.

(7) Invoice number.

Alternate II (Date)

As prescribed in 1816.506–70(b), insert the following paragraph (i):

(i) Contractor shall submit progress reports, as required. When required, the reports shall contain, at a minimum, the following information:

(1) Contract number, task order number, and date of the order.

(2) Price and billed amounts to date for each task order.

(3) Significant issues/problems associated with the task order.

(4) Status of all task orders issued under the contract.

(5) Invoice number.

1852.232–80 [Amended]

■ 5. Amend section 1852.232–80 by—

■ a. Revising clause title and date;

■ b. In paragraph (b), removing the words ''submit all vouchers electronically using'' and adding the words ''submit all vouchers and invoices using'' in its place;

■ c. Revising paragraphs (c) and (d); and

■ d. In paragraph (e), removing the word ''vouchers'' and adding ''vouchers/invoices'' wherever it occurs.

The revisions read as follows:

1852.232–80 Submission of vouchers/invoices for payment.

As prescribed in 1832.908–70, insert the following clause:

Submission of Vouchers/Invoices for Payment (Date)

* * * * *

(c) *Payment requests.* (1) The payment periods are stipulated in the payment clause(s) contained in this contract.

(2) Vouchers submitted under cost-type contracts and invoices submitted under fixed-price contracts shall include the items delineated in FAR 32.905(b) supported by relevant back-up documentation. Back-up documentation shall include at a minimum, the following information:

(i) *Vouchers.* (A) Breakdown of billed labor costs and associated contractor generated supporting documentation for billed direct labor costs to include rates used and number of hours incurred.

(B) Breakdown of billed other direct costs (ODCs) and associated contractor generated supporting documentation for billed ODCs.

(C) Indirect rate(s) used to calculate the amount of billed indirect expenses.

(D) Progress reports, as required.

(ii) *Invoices.* (A) Description of goods and services delivered as part of the contract's terms and conditions, including the dates of delivery/performance.

(B) Progress reports, as required.

(C) Date goods and services were performed.

(iii) *Fee vouchers.* (A) Listing of all provisionally-billed fee by period or date earned since contract award.

(B) A reconciliation of all billed and earned fee.

(C) A clear explanation of the fee calculations.

(d) *Non-electronic payment requests.* The Contractor may submit a non-electronic voucher/invoice using the steps for non-electronic payment requests described at *https://www.nssc.nasa.gov/vendorpayment,* when any of the following conditions are met:

(1) The Contracting Officer administering the contract for payment has determined, in writing, that electronic submission would be unduly burdensome to the Contractor.

(2) The contract includes provisions allowing the contractor to submit vouchers or invoices using the steps for non-electronic payment. In such instances the Contractor agrees to submit non-electronic payment requests using the method or methods specified in Section G of the contract.

* * * * *

[FR Doc. 2017–19542 Filed 9–15–17; 8:45 am]

BILLING CODE 7510–13–P

Notices

Federal Register
Vol. 82, No. 179
Monday, September 18, 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

September 13, 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 October 18, 2017 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rural Housing Service

Title: Single Family Housing Guaranteed Loan Program.

OMB Control Number: 0575–0179.

Summary of Collection: The Housing and Community Facilities Program (HCFP), herein referred to as the ''Agency,'' is a credit agency for the Rural Housing Service (RHS) of the U.S. Department of Agriculture. The Agency offers supervised credit programs to build modest housing and essential community facilities in rural areas. Section 517(d) of Title V of the Housing Act of 1949, as amended, provides the authority for the Secretary to issue loan guarantees for the acquisition of new or existing dwellings and related facilities to provide decent, safe, and sanitary living conditions and other structures in rural areas. The Single Family Housing Guaranteed Loan Program (SFHGLP) was authorized under the Cranston-Gonzalez National Affordable Housing Act. The purpose of SFHGLP is to assist low and moderate-income individuals and families in acquiring or constructing a single-family residence in a rural area with loans made by private lenders.

Need and Use of the Information: Information is collected from both a potential homebuyer and lender. To participate in the program, lenders must submit to standards which ensure the loan objectives of the SFHGLP are met. The lender submits qualifications to the Agency and enters into an agreement that outlines both the lender and Agency's commitments and responsibilities under the guaranteed program. Information from a homebuyer includes financial documents such as confirmation of household income, assets and liabilities, a credit record, evidence the homebuyer has adequate repayment ability for the loan amount requested and if the condition and location of the property meet program guidelines. All information collected is vital for the Agency to determine if borrowers qualify for all assistance for which they are eligible.

Description of Respondents: Business or other for-profit; State, Local or Tribal Government.

Number of Respondents: 1,476.

Frequency of Responses: Reporting: Monthly; Quarterly; Annually.

Total Burden Hours: 1,079,062.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2017–19733 Filed 9–15–17; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

September 13, 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 October 18, 2017 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control

number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Blood and Tissue Collection, and Recordkeeping, at Slaughtering, Rendering, and Approved Livestock Marketing Establishments and Facilities.

OMB Control Number: 0579–0212.

Summary of Collection: The Animal Health Protection Act (AHPA) of 2002 is the primary Federal law governing the protection of animal health. The AHPA is contained in Title X, Subtitle E, Sections 10401–18 of Public Law 107–171, May 13, 2002, the Farm Security and Rural Investment Act of 2002. As part of its mission to monitor and test for livestock diseases, the Department of Agriculture, Animal and Plant Health Inspection Service (APHIS), Veterinary Services (VS), maintains with approved slaughtering, rendering, and livestock marketing establishments and facilities agreements and procedures for animal disease surveillance and reporting, maintaining livestock movement records, and collecting blood and tissue samples.

These agreements and procedures include information collection activities such as Approved Livestock Facility Agreements, Requests for Appeal of Denial of Agreement, Withdrawal of Livestock Facility Agreements, Requests for Appeal of Withdrawal of Agreements, Listing Agreements for Slaughter or Rendering Establishments, Slaughter or Rendering Facility Inspection Reports, Requests for Appeal of Denial of Listings, Requests for Appeal of Withdrawal of Listing, Schedules of Sales Days, Diseased Animal Notifications, Quarantine Signs, and maintaining animal movement records.

Need and Use of the Information: The collection of this information identifies and prevents the interstate movement of unhealthy livestock animals with diseases within the United States. The information collected is used to: (1) Establish Livestock Facility Agreements and Listing Agreements between APHIS and owners and operators of slaughtering and rendering establishments and livestock marketing facilities, (2) rapidly confirm livestock disease occurrences through reporting and sampling, (3) trace the sources of diseases, as well as the movement of other potentially infected animals, and (4) provide epidemiological data for new or updated risk analyses in support of disease control programs, and, as required, opening international markets for animal products. Without the agreements and sampling/reporting procedures, the risk of contagious disease spread becomes very high with serious consequences for U.S. meat industries and export markets.

Description of Respondents: Business or other-for profit; State, Local or Tribal Government.

Number of Respondents: 2,864.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 2,471.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2017–19788 Filed 9–15–17; 8:45 am]

BILLING CODE 3410–34–P

ARCTIC RESEARCH COMMISSION

Notice of 108th Commission Meeting

A notice by the U.S. Arctic Research Commission on 10/10/2017.

Notice is hereby given that the U.S. Arctic Research Commission will hold its 108th meeting in Anchorage, AK, on October 10, 2017. The business sessions, open to the public, will convene at 8:00 a.m. at the Hotel Captain Cook, 939 W 5th Ave., Anchorage, AK 99501.

The Agenda items include:

(1) Call to order and approval of the agenda
(2) Approval of the minutes from the 106th meeting
(3) Commissioners and staff reports
(4) Discussion and presentations concerning Arctic research activities

The meeting will focus on reports and updates relating to programs and research projects affecting Alaska and the greater Arctic.

The Arctic Research and Policy Act of 1984 (Title I Pub. L. 98–373) and the Presidential Executive Order on Arctic Research (Executive Order 12501) dated January 28, 1985, established the United States Arctic Research Commission.

If you plan to attend this meeting, please notify us via the contact information below. Any person planning to attend who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission of those needs in advance of the meeting.

Contact person for further information: Kathy Farrow, Communications Specialist, U.S. Arctic Research Commission, 703–525–0111 or TDD 703–306–0090.

Dated: September 1, 2017.

Kathy Farrow,

Communications Specialist.

[FR Doc. 2017–19798 Filed 9–15–17; 8:45 am]

BILLING CODE 7555–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

EU–U.S. Privacy Shield; Invitation for Applications for Inclusion on the List of Arbitrators; Correction

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice; correction.

SUMMARY: The Department of Commerce published a document in the **Federal Register** of September 7, 2017, concerning request for comments on the EU–U.S. Privacy Shield; Invitation for Applications for Inclusion on the List of Arbitrators. The document contained incorrect dates.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Nasreen Djouini at the U.S. Department of Commerce, either by email at *Nasreen.Djouini@trade.gov,* or by fax at: 202–482–5522.

Correction

In the **Federal Register** of September 7, 2017, in FR Doc. 2017–18896, on pages 42294–42295, in the Method of Collection section, correct the date for the deadline of application submissions to read:

II. Method of Collection

Please submit applications by October 6, 2017 deadline to Nasreen Djouini at the U.S. Department of Commerce, either by email at *Nasreen.Djouini@trade.gov,* or by fax at: 202–482–5522. More information on the arbitration mechanism may be found at *https://www.privacyshield.gov/article?id=ANNEX-I-introduction.*

Sheleen Dumas,

Departmental PRA Lead, Office of the Chief Information Officer.

[FR Doc. 2017–19742 Filed 9–15–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–475–837; C–489–832]

Carbon and Alloy Steel Wire Rod From Italy and Turkey: Alignment of Final Countervailing Duty Determinations With Final Antidumping Duty Determinations

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

SUMMARY: The Department of Commerce (the Department) is aligning the final determinations in the countervailing duty (CVD) investigations of carbon and alloy steel wire rod (wire rod) from Italy and Turkey with the final determinations in the companion antidumping duty (AD) investigations.

DATES: Applicable September 18, 2017.

FOR FURTHER INFORMATION CONTACT: John Corrigan and Yasmin Bordas at (202) 482–7438 and (202) 482–3813, respectively (Italy); Justin Neuman and Omar Qureshi at (202) 482–0486 and (202) 482–5307, respectively (Turkey), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On April 17, 2017, the Department initiated the CVD investigations of wire rod from Italy and Turkey.[1] Simultaneously, the Department initiated AD investigations of wire rod from Belarus, Italy, the Republic of Korea, the Russian Federation, South Africa, Spain, the Republic of Turkey, Ukraine, the United Arab Emirates, and the United Kingdom.[2] The CVD investigations and AD investigations cover the same class or kind of merchandise.

Alignment With AD Final Determination

On September 5, 2017, the Department published the preliminary affirmative CVD determinations pertaining to wire rod from Italy and Turkey.[3] On August 30, 2017, in accordance with section 705(a) of the Tariff Act of 1930, as amended (the Act), 19 CFR 351.210(b)(4)(i), and 351.210(i), Nucor Corporation, a petitioner in the instant investigations, timely requested alignment of the final CVD determinations with the final determinations in the related AD investigations of wire rod from Italy and Turkey.[4] Therefore, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4)(i), we are aligning the final CVD determinations with the final AD determinations. Consequently, the final CVD determinations will be issued on the same date as the final AD determinations, which are currently scheduled to be issued no later than January 8, 2018,[5] unless postponed.

This notice is issued and published pursuant to section 705(a)(1) of the Act and 19 CFR 351.210(g).

Dated: September 12, 2017.

Gary Taverman,

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

[FR Doc. 2017–19774 Filed 9–15–17; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–979]

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Partial Rescission of Antidumping Duty Administrative Review

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

DATES: Applicable September 18, 2017.

FOR FURTHER INFORMATION CONTACT: Krisha Hill or Celeste Chen, 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) 482–4037 or (202) 482–0890, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 7, 2012, the Department of Commerce (Department) published in the **Federal Register** the antidumping duty order on crystalline silicon photovoltaic cells, whether or not assembled into modules, from the People's Republic of China (PRC) (Order).[1] On December 1, 2016, the Department published a notice of opportunity to request an administrative review of the Order.[2] The Department received multiple timely requests for an administrative review of the Order. On February 13, 2017, in accordance with section 751(a) of Tariff Act of 1930, as amended (the Act), the Department published in the **Federal Register** a notice of the initiation of an administrative review of the Order.[3] The administrative review was initiated with respect to 47 companies or groups of companies, and covers the period from December 1, 2015, through November 30, 2016. Requesting parties have subsequently timely withdrawn all review requests for nine companies or groups of companies for which the Department initiated a review, as discussed below.

Partial Rescission

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if a party that requested the review withdraws its request within 90 days of the date of publication of the notice of initiation of the requested review. *All* requesting parties withdrew their respective requests for an administrative review of the nine companies or groups of companies listed in the Appendix within 90 days of the date of publication of *Initiation Notice.* Accordingly, the Department is rescinding this review

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[1] *See Carbon and Alloy Steel Wire Rod from Italy and Turkey: Initiation of Countervailing Duty Investigations,* 82 FR 19213 (April 26, 2017).

[2] *See Carbon and Alloy Steel Wire Rod from Belarus, Italy, the Republic of Korea, the Russian Federation, South Africa, Spain, the Republic of Turkey, Ukraine, United Arab Emirates, and United Kingdom: Initiation of Less-Than-Fair-Value Investigations,* 82 FR 19207 (April 26, 2017).

[3] *See Carbon and Alloy Steel Wire Rod from Italy: Preliminary Affirmative Countervailing Duty Determination,* 82 FR 41931 (September 5, 2017); *see also Carbon and Alloy Steel Wire Rod from the Republic of Turkey: Preliminary Affirmative Countervailing Duty Determination and Preliminary Affirmative Critical Circumstances Determination,* in Part, 82 FR 41929 (September 5, 2017).

[4] *See* Letter to the Secretary re: Countervailing Duty Investigation of Carbon and Alloy Steel Wire Rod from Italy: Request to Align Countervailing Duty Final Determination with Antidumping Duty Final Determination, dated August 30, 2017; *see also* Letter to the Secretary re: Countervailing Duty Investigation of Carbon and Alloy Steel Wire Rod from the Republic of Turkey: Request to Align Countervailing Duty Final Determination with Antidumping Duty Final Determination, dated August 30, 2017.

[5] This date reflects the next business day after the deadline of January 7, 2018. *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005).

[1] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order,* 77 FR 73018 (December 7, 2012).

[2] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 80 FR 86694 (December 1, 2016).

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 82 FR 10457 (February 13, 2017) (*Initiation Notice*).

with respect to these companies, in accordance with 19 CFR 351.213(d)(1).[4]

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. For the companies for which this review is rescinded, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(l)(i). The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice.

Notification to Importers

This notice serves as the only reminder to importers whose entries will be liquidated as a result of this rescission notice, of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's assumption that the reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Orders

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 an 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 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 which is subject to sanction.

[4] *See* Appendix. As stated in *Change in Practice in NME Reviews,* the Department will no longer consider the non-market economy (NME) entity as an exporter conditionally subject to administrative reviews. *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013). The PRC-wide entity is not subject to this administrative review because no interested party requested a review of the entity. *See Initiation Notice.*

This notice is issued and published in accordance with section 751(a)(1) of the Act and 19 CFR 351.213(d)(4).

Dated: August 16, 2017.

James Maeder,

Senior Director, performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

- BYD (Shangluo) Industrial Co., Ltd.
- Canadian Solar International Limited
- Canadian Solar Manufacturing (Changshu) Inc.
- Canadian Solar Manufacturing (Luoyang) Inc.
- Jinko Solar Co., Ltd.
- Jinko Solar Import and Export Co., Ltd.
- JinkoSolar International Limited
- Shanghai BYD Co., Ltd.
- Zhejiang Jinko Solar Co., Ltd.

[FR Doc. 2017–19773 Filed 9–15–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–840]

Certain Frozen Warmwater Shrimp From India: Final Results of Antidumping Duty Administrative Review; 2015–2016

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

SUMMARY: On March 6, 2017, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on certain frozen warmwater shrimp from India. The period of review (POR) is February 1, 2015, through January 31, 2016. Based on our analysis of the comments received, we made certain changes in the margin calculations. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled ''Final Results of the Review.''

DATES: Applicable September 18, 2017.

FOR FURTHER INFORMATION CONTACT: Blaine Wiltse or Manuel Rey, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–6345 or (202) 482–5518, respectively.

SUPPLEMENTARY INFORMATION:

Background

This review covers 231 producers and/or exporters. The producers/exporters which the Department selected for individual examination are Falcon Marine Exports Limited and its affiliate K.R. Enterprises (collectively, Falcon) and the Liberty Group.[1] The producers/exporters which were not selected for individual examination are listed in the ''Final Results of the Review'' section of this notice.

On March 6, 2017, the Department published the *Preliminary Results*.[2] On June 26, 2017, we received case briefs from Falcon and the Liberty Group (collectively, the respondents), the Ad Hoc Shrimp Trade Action Committee (the petitioner), and the American Shrimp Processors Association. On June 30, 2017, we received rebuttal briefs from the respondents and the petitioner.

On June 19, 2017, we postponed the final results by 60 days, until September 5, 2017.[3]

Scope of the Order

The merchandise subject to the order is certain frozen warmwater shrimp.[4] The product is currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) item numbers: 0306.17.00.03, 0306.17.00.06, 0306.17.00.09, 0306.17.00.12, 0306.17.00.15, 0306.17.00.18, 0306.17.00.21, 0306.17.00.24, 0306.17.00.27, 0306.17.00.40, 1605.21.10.30, and 1605.29.10.10. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive.

[1] The Liberty Group consists of: Devi Marine Food Exports Private Ltd.; Kader Exports Private Limited; Kader Investment and Trading Company Private Limited; Liberty Frozen Foods Pvt. Ltd.; Liberty Oil Mills Ltd.; Premier Marine Products Private Limited; and Universal Cold Storage Private Limited.

[2] *See Certain Frozen Warmwater Shrimp from India: Preliminary Results of Antidumping Duty Administrative Review; 2015–2016,* 82 FR 12544 (March 6, 2017) (*Preliminary Results*).

[3] *See* Memorandum to Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, from Manuel Rey, International Trade Compliance Analyst, Office II, Antidumping and Countervailing Duty Operations, entitled ''Certain Frozen Warmwater Shrimp from India; 2015–2016 Administrative Review: Extension of Deadline for Final Results,'' dated June 19, 2017.

[4] For a complete description of the Scope of the Order, *see* the memorandum from James Maeder, Senior Director performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, entitled, ''Issues and Decision Memorandum for the Final Results of the 2015–2016 Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from India,'' (dated concurrently with these results) (IDM), which is hereby adopted by this notice.

Analysis of Comments Received

All issues raised in the case briefs by parties are listed in the Appendix to this notice and addressed in the IDM. Parties can find a complete discussion of these issues and the corresponding recommendations in this public memorandum, which 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;* the IDM is also 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 IDM can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed IDM and the electronic version of the IDM are identical in content.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* we made certain changes to the margin calculations performed for Falcon and the Liberty Group.[5]

Final Results of the Review

We are assigning the following dumping margins to the firms listed below for the period of February 1, 2015, through January 31, 2016:

Manufacturer/Exporter	Percent margin
Falcon Marine Exports Limited/K.R. Enterprises	0.00
The Liberty Group	0.84
Review-Specific Average Rate Applicable to the Following Companies:	
Abad Fisheries	0.84
Adilakshmi Enterprises	0.84
Akshay Food Impex Private Limited	0.84
Allana Frozen Foods Pvt. Ltd.	0.84
Allanasons Ltd.	0.84
AMI Enterprises	0.84
Anand Aqua Exports	0.84
Ananda Aqua Applications/Ananda Aqua Exports (P) Limited/Ananda Foods	0.84
Ananda Enterprises (India) Private Limited	0.84
Andaman Sea Foods Pvt. Ltd.	0.84
Angelique Intl	0.84
Anjaneya Seafoods	0.84
Apex Frozen Foods Private Limited	0.84
Aquatica Frozen Foods Global Pvt. Ltd.	0.84
Arvi Import & Export	0.84
Asvini Exports	0.84
Asvini Fisheries Private Limited	0.84
Avanti Feeds Limited	0.84
B R Traders	0.84
Baby Marine Exports	0.84
Balasore Marine Exports Private Limited	0.84
Bhatsons Aquatic Products	0.84
Bhavani Seafoods	0.84
Bijaya Marine Products	0.84
Blue Fin Frozen Foods Pvt. Ltd.	0.84
Bluepark Seafoods Private Ltd.	0.84
BMR Exports	0.84
BMR Industries Private Limited	0.84
Britto Exports	0.84
C P Aquaculture (India) Ltd.	0.84
Calcutta Seafoods Pvt. Ltd.	0.84
Canaan Marine Products	0.84
Castlerock Fisheries Ltd.	0.84
Chemmeens (Regd)	0.84
Choice Canning Company	0.84
Choice Trading Corporation Private Limited	0.84
Coastal Aqua	0.84
Coastal Corporation Ltd.	0.84
Cochin Frozen Food Exports Pvt. Ltd.	0.84
Coreline Exports	0.84
Corlim Marine Exports Pvt. Ltd.	0.84
D2 D Logistics Private Limited	0.84
Damco India Private Limited	0.84
Devi Fisheries Limited/Satya Seafoods Private Limited/Usha Seafoods	0.84
Diamond Seafoods Exports/Edhayam Frozen Foods Pvt. Ltd./Kadalkanny Frozen Foods/Theva & Company	0.84
Devi Sea Foods Limited[6]	0.84
Digha Seafood Exports	0.84
Esmario Export Enterprises	0.84
Exporter Coreline Exports	0.84
Febin Marine Foods	0.84

[5] *See* IDM at 4.

	Percent margin
Five Star Marine Exports Private Limited	0.84
Forstar Frozen Foods Pvt. Ltd.	0.84
Frontline Exports Pvt. Ltd.	0.84
G A Randerian Ltd.	0.84
Gadre Marine Exports	0.84
Galaxy Maritech Exports P. Ltd.	0.84
Gayatri Seafoods	0.84
Geo Seafoods	0.84
Goodwill Enterprises	0.84
Grandtrust Overseas (P) Ltd.	0.84
Haripriya Marine Export Pvt. Ltd.	0.84
Harmony Spices Pvt. Ltd.	0.84
HIC ABF Special Foods Pvt. Ltd.	0.84
Hindustan Lever, Ltd.	0.84
Hiravata Ice & Cold Storage	0.84
Hiravati Exports Pvt. Ltd.	0.84
Hiravati International P. Ltd. (located at APM—Mafco Yard, Sector—18, Vashi, Navi, Mumbai—400 705, India)	0.84
Hiravati International Pvt. Ltd. (located at Jawar Naka, Porbandar, Gujarat, 360 575, India)	0.84
IFB Agro Industries Ltd.	0.84
Indian Aquatic Products	0.84
Indo Aquatics	0.84
Indo French Shellfish Company Private Limited	0.84
Innovative Foods Limited	0.84
International Freezefish Exports	0.84
Interseas	0.84
ITC Limited, International Business	0.84
ITC Ltd.	0.84
Jaya Satya Marine Exports	0.84
Jaya Satya Marine Exports Pvt. Ltd.	0.84
Jayalakshmi Sea Foods Private Limited	0.84
Jinny Marine Traders	0.84
Jiya Packagings	0.84
K R M Marine Exports Ltd.	0.84
K V Marine Exports	0.84
Kalyan Aqua & Marine Exports India Pvt. Ltd.	0.84
Kalyanee Marine	0.84
Kanch Ghar	0.84
Karunya Marine Exports Private Limited	0.84
Kay Kay Exports	0.84
Kings Marine Products	0.84
Koluthara Exports Ltd.	0.84
Konark Aquatics & Exports Pvt. Ltd.	0.84
Landauer Ltd.	0.84
Libran Cold Storages (P) Ltd.	0.84
Magnum Estates Limited	0.84
Magnum Export	0.84
Magnum Sea Foods Limited	0.84
Malabar Arabian Fisheries	0.84
Malnad Exports Pvt. Ltd.	0.84
Mangala Marine Exim India Pvt. Ltd.	0.84
Mangala Sea Products	0.84
Mangala Seafoods	0.84
Meenaxi Fisheries Pvt. Ltd.	0.84
Milesh Marine Exports Private Limited	0.84
MSRDR Exports	0.84
MTR Foods	0.84
Munnangi Sea Foods Pvt. Ltd.	0.84
N.C. John & Sons (P) Ltd.	0.84
Naga Hanuman Fish Packers	0.84
Naik Frozen Foods Private Limited	0.84
Naik Seafoods Ltd.	0.84
Neeli Aqua Private Limited	0.84
Nekkanti Sea Foods Limited	0.84
Nezami Rekha Sea Foods Private Limited	0.84
NGR Aqua International	0.84
Nila Sea Foods Exports	0.84
Nila Sea Foods Pvt. Ltd.	0.84
Nine Up Frozen Foods	0.84
Nutrient Marine Foods Limited	0.84
Oceanic Edibles International Limited	0.84
Overseas Marine Export	0.84
Paragon Sea Foods Pvt. Ltd.	0.84
Paramount Seafoods	0.84

	Percent margin
Parayil Food Products Pvt. Ltd.	0.84
Penver Products Pvt. Ltd.	0.84
Pesca Marine Products Pvt. Ltd.	0.84
Pijikay International Exports P Ltd.	0.84
Pisces Seafood International	0.84
Premier Exports International	0.84
Premier Marine Foods	0.84
Premier Seafoods Exim (P) Ltd.	0.84
R V R Marine Products Limited	0.84
Raa Systems Pvt. Ltd.	0.84
Raju Exports	0.84
Ram's Assorted Cold Storage Ltd.	0.84
Raunaq Ice & Cold Storage	0.84
Raysons Aquatics Pvt. Ltd.	0.84
Razban Seafoods Ltd.	0.84
RBT Exports	0.84
RDR Exports	0.84
Riviera Exports Pvt. Ltd.	0.84
Rohi Marine Private Ltd.	0.84
S & S Seafoods	0.84
S Chanchala Combines	0.84
S. A. Exports	0.84
S.J. Seafoods	0.84
Safa Enterprises	0.84
Sagar Foods	0.84
Sagar Grandhi Exports Private Limited	0.84
Sagar Samrat Seafoods	0.84
Sagarvihar Fisheries Pvt. Ltd.	0.84
Sai Marine Exports Pvt. Ltd.	0.84
SAI Sea Foods	0.84
Salvam Exports (P) Ltd.	0.84
Sanchita Marine Products Private Limited	0.84
Sandhya Aqua Exports	0.84
Sandhya Aqua Exports Pvt. Ltd.	0.84
Sandhya Marines Limited	0.84
Sarveshwari Exports	0.84
Sawant Food Products	0.84
Sea Foods Private Limited	0.84
Seagold Overseas Pvt. Ltd.	0.84
Sharat Industries Ltd.	0.84
Sharma Industries	0.84
Shimpo Exports Pvt. Ltd.	0.84
Shippers Exports	0.84
Shiva Frozen Food Exports Pvt. Ltd.	0.84
Shree Datt Aquaculture Farms Pvt. Ltd.	0.84
Shroff Processed Food & Cold Storage P Ltd.	0.84
Silver Seafood	0.84
Sita Marine Exports	0.84
Sowmya Agri Marine Exports	0.84
Sprint Exports Pvt. Ltd.	0.84
Sri Chandrakantha Marine Exports	0.84
Sri Sakkthi Cold Storage	0.84
Sri Satya Marine Exports	0.84
Sri Venkata Padmavathi Marine Foods Pvt. Ltd.	0.84
Srikanth International	0.84
Star Agro Marine Exports Private Limited	0.84
Star Organic Foods Incorporated	0.84
Sun-Bio Technology Ltd.	0.84
Supran Exim Private Limited	0.84
Suryamitra Exim Pvt. Ltd.	0.84
Suvarna Rekha Exports Private Limited	0.84
Suvarna Rekha Marines P Ltd.	0.84
TBR Exports Pvt Ltd.	0.84
Teekay Marine P. Ltd.	0.84
Tejaswani Enterprises	0.84
The Waterbase Ltd.	0.84
Triveni Fisheries P Ltd.	0.84
Uniroyal Marine Exports Ltd.	0.84
Unitriveni Overseas	0.84
V V Marine Products	0.84
V.S Exim Pvt Ltd.	0.84
Vasista Marine	0.84
Veejay Impex	0.84

	Percent margin
Victoria Marine & Agro Exports Ltd.	0.84
Vishal Exports	0.84
Vitality Aquaculture Pvt., Ltd.	0.84
Wellcome Fisheries Limited	0.84
West Coast Frozen Foods Private Limited	0.84
Z A Sea Foods Pvt. Ltd.	0.84

Assessment Rates

The Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries.

Because the weighted-average dumping margin for Falcon is zero, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Pursuant to 19 CFR 351.212(b)(1), because the Liberty Group reported the entered value for all its U.S. sales, we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the sales for which entered value was reported. To determine whether the duty assessment rates are *de minimis,* in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer-specific *ad valorem* ratios based on the entered value.

For the companies which were not selected for individual examination, we used as the assessment rate the cash deposit rate assigned to these exporters, in accordance with our practice.[7]

The Department's ''automatic assessment'' practice will apply to entries of subject merchandise during the POR produced by Falcon or the Liberty Group for which these companies did not know that the merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[8]

The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: 1) the cash deposit rates for the reviewed companies will be the rates shown above, except if the rate is less than 0.50 percent (*de minimis* within the meaning of 19 CFR 351.106(c)(1)), the cash deposit will be zero; 2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; 3) if the exporter is not a firm covered in this review, a previous review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and 4) the cash deposit rate for all other manufacturers or exporters will continue to be 10.17 percent, the all-others rate established in the LTFV investigation.[9] These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

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

Administrative Protective Order

In accordance with 19 CFR 351.305(a)(3), this notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under the APO, which continues to govern business proprietary information in this segment of the proceeding. 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.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.213(h).

Dated: September 5, 2017.

Gary Taverman,

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

Appendix—List of Topics Discussed in the IDM

[6] Shrimp produced and exported by Devi Sea Foods (Devi) was excluded from this order effective February 1, 2009. *See Certain Frozen Warmwater Shrimp From India: Final Results of Antidumping Duty Administrative Review, Partial Rescission of Review, and Notice of Revocation of Order in Part,* 75 FR 41813, 41814 (July 19, 2010). Accordingly, we conducted this administrative review with respect to Devi only for shrimp produced in India where Devi acted as either the manufacturer or exporter (but not both).

[7] *See, e.g., Certain Frozen Warmwater Shrimp From India: Final Results of Antidumping Duty Administrative Review,* 79 FR 51309 (August 28, 2014).

[8] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[9] *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from India,* 70 FR 5147, 5148 (February 1, 2005).

Recommendation

[FR Doc. 2017–19912 Filed 9–15–17; 4:15 pm]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–970]

Multilayered Wood Flooring From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Results of Administrative Review and Notice of Amended Final Results of Administrative Review Pursuant to Court Decision

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

SUMMARY: On August 25, 2017, the United States Court of International Trade (CIT) issued its final judgment sustaining the Department of Commerce's (the Department) final results of remand redetermination pursuant to court order. The Department is notifying the public that the final judgment in this case is not in harmony with the Department's final results in the second administrative review of the antidumping duty order on multilayered wood flooring from the People's Republic of China (PRC), and that the Department is amending its determination with respect to Linyi Bonn Flooring Manufacturing Co., Ltd. (Linyi Bonn).

DATES: Applicable September 4, 2017.

FOR FURTHER INFORMATION CONTACT: Aleksandras Nakutis, AD/CVD Operations, Office IV, Enforcement and Compliance—International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–3147.

SUPPLEMENTARY INFORMATION:

Background

Linyi Bonn was reviewed in a new shipper review (NSR) of the antidumping duty order on multilayered wood flooring from the PRC, covering the period of review from December 1, 2012 through May 31, 2013.[1] In the *Final Results of NSR,* the Department calculated a weighted-average dumping margin for Linyi Bonn of zero percent, also finding that Linyi Bonn had demonstrated its entitlement to a separate rate.[2]

Linyi Bonn was also subsequently a respondent in an administrative review that partially overlapped the period of review for the NSR, in that it covered the period of review December 1, 2012 through November 30, 2013. On July 15, 2016, the Department published the *Final Results* in the administrative review, in which it found that Linyi Bonn was part of the PRC-wide entity, because Linyi Bonn failed to submit either a timely certification of no sales, a separate rate certification, or a separate rate application.[3]

On April 21, 2017, the CIT remanded the *Final Results,* finding the Department's determination to assign Linyi Bonn the PRC-wide rate of 58.84 percent was contrary to law. The CIT held that the Department's *Initiation Notice* [4] failed to provide notice to Linyi Bonn of the need to file a ''partial'' no shipments certification for only a portion of the review. The CIT remanded for the Department to ''correct the problem created by its failure to provide notice.'' [5] In particular, the CIT ordered the Department to afford Linyi Bonn ''the opportunity it would have had if the Department's failure to provide notice had not occurred.'' [6]

On June 19, 2017, the Department issued its *Remand Results,* in which the Department determined that Linyi Bonn did not have shipments during the period of review other than those already reviewed in the *Final Results of NSR.*[7]

On August 25, 2017, the CIT issued its decision sustaining the Department's *Remand Results.*[8]

Timken Notice

In its decision in *Timken,*[9] as clarified by *Diamond Sawblades,*[10] the Court of Appeals for the Federal Circuit held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act), the Department must publish a notice of a court decision that is not ''in harmony'' with a Department determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's August 25, 2017, judgment constitutes a final decision of that court that is not in harmony with the Department's *Final Results.* This notice is published in fulfillment of the publication requirements of *Timken.* Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal, or if appealed, pending a final and conclusive court decision.

Amended Final Results

Because there is now a final court decision with respect to this case, the Department is amending its *Final Results* with respect Linyi Bonn. Based on the *Remand Results,* we no longer find that Linyi Bonn is part of the PRC-wide entity. Instead, we have found that Linyi Bonn had no reviewable shipments during the period of review that were not otherwise covered in the overlapping period of review for the partially concurrent NSR.

In the event that the CIT's ruling is not appealed or, if appealed, is upheld by a final and conclusive court decision, the Department will issue appropriate instructions to U.S. Customs and Border Protection to give effect to the finding of no shipments during the period June 1, 2013, through November 30, 2013, and to ensure that any entries of subject merchandise that were produced and exported by Linyi Bonn during the period December 1, 2012, through May 31, 2013, are liquidated in accordance with the *Final Results of NSR.*

Cash Deposit Requirements

Because there has been a subsequent administrative review for Linyi Bonn, the cash deposit rate for Linyi Bonn will remain the rate established in the most recently-completed administrative review, which is zero percent.[11]

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[1] *See Multilayered Wood Flooring From the People's Republic of China: Final Results of Antidumping Duty New Shipper Reviews 2012–2013,* 79 FR 66355 (November 7, 2014) (*Final Results of NSR*).

[2] *Id.* at 66356.

[3] *See Multilayered Wood Flooring from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Results of New Shipper Review; 2012–2013,* 80 FR 41476 (July 15, 2015), as corrected by *Multilayered Wood Flooring from the People's Republic of China,* 80 FR 49,986 (Dep't of Commerce Aug. 18, 2015) (correction to final admin. review), *and Multilayered Wood Flooring from the People's Republic of China,* 80 FR 52,447 (Dep't of Commerce Aug. 31, 2015) (correction to final admin. review) (collectively, *Final Results*).

[4] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 79 FR 6147 (February 3, 2014) (*Initiation Notice*).

[5] *See Linyi Bonn Flooring Manufacturing Co., Ltd.* v. *United States,* Court No. 15–00227, Slip Op. 17–46, at 28.

[6] *Id.*

[7] *See* Final Results of Redetermination Pursuant to Court Order (June 19, 2017) (*Remand Results*).

[8] *See Linyi Bonn Flooring Manufacturing Co., Ltd.* v. *United States,* Court No. 15–00227, Slip Op. 17–113.

[9] *See Timken Co.* v. *United States,* 893 F.2d. 337 (Fed. Cir. 1990) (*Timken*).

[10] *See Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F.3d. 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

[11] *See Multilayered Wood Flooring From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, and Final Partial*

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: September 11, 2017.

Gary Taverman,

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

[FR Doc. 2017–19771 Filed 9–15–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Upcoming 2018 International Trade Administration Aerospace Industry Trade Mission to Singapore

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The United States Department of Commerce, International Trade Administration (ITA) is announcing an additional upcoming trade mission that will be recruited, organized, and implemented by ITA. The mission is:

• Aerospace Executive Service Trade Mission to the Singapore Airshow—February 5–9, 2018.

A summary of the mission is found below. Application information and more detailed mission information, including the commercial setting and sector information, can be found at the trade mission Web site: *http://export.gov/trademissions.*

For each mission, recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar (*http://export.gov/trademissions*) and other Internet Web sites, press releases to general and trade media, direct mail, broadcast fax, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows.

The Following Conditions for Participation Will Be Used for Each Mission

Applicants must submit a completed and signed mission application and supplemental application materials, including adequate information on their products and/or services, primary market objectives, and goals for participation. If the Department of Commerce receives an incomplete application, the Department may either: Reject the application, request additional information/clarification, or take the lack of information into account when evaluating the application. If the requisite minimum number of participants is not selected for a particular mission by the recruitment deadline, the mission may be cancelled.

Each applicant must also certify that the products and services it seeks to export through the mission are either produced in the United States, or, if not, are marketed under the name of a U.S. firm and have at least fifty-one percent U.S. content by value. In the case of a trade association or organization, the applicant must certify that, for each firm or service provider to be represented by the association/organization, the products and/or services the represented firm or service provider seeks to export are either produced in the United States or, if not, marketed under the name of a U.S. firm and have at least 51% U.S. content.

A trade association/organization applicant must certify to the above for all of the companies it seeks to represent on the mission.

In addition, each applicant must:

• Certify that the products and services that it wishes to market through the mission would be in compliance with U.S. export controls and regulations;

• Certify that it has identified any matter pending before any bureau or office in the Department of Commerce;

• Certify that it has identified any pending litigation (including any administrative proceedings) to which it is a party that involves the Department of Commerce; and

• Sign and submit an agreement that it and its affiliates (1) have not and will not engage in the bribery of foreign officials in connection with a company's/participant's involvement in this mission, and (2) maintain and enforce a policy that prohibits the bribery of foreign officials.

In the case of a trade association/organization, the applicant must certify that each firm or service provider to be represented by the association/organization can make the above certifications.

The Following Selection Criteria Will Be Used for Each Mission

Targeted mission participants are U.S. firms, services providers and trade associations/organizations providing or promoting U.S. products and services that have an interest in entering or expanding their business in the mission's destination country. The following criteria will be evaluated in selecting participants:

• Suitability of the applicant's (or in the case of a trade association/organization, represented firm or service provider's) products or services to these markets;

• The applicant's (or in the case of a trade association/organization, represented firm or service provider's) past, present, and prospective business activity in relation to the Mission's target market(s) and sector(s);

• The applicant's (or in the case of a trade association/organization, represented firm or service provider's) potential for business in the markets, including likelihood of exports resulting from the mission; and

• Consistency of the applicant's (or in the case of a trade association/organization, represented firm or service provider's) goals and objectives with the stated scope of the mission.

Referrals from a political party or partisan political group or any information, including on the application, containing references to political contributions or other partisan political activities will be excluded from the application and will not be considered during the selection process. The sender will be notified of these exclusions.

Trade Mission Participation Fees

If and when an applicant is selected to participate on a particular mission, a payment to the Department of Commerce in the amount of the designated participation fee below is required. Upon notification of acceptance to participate, those selected have 5 business days to submit payment or the acceptance may be revoked.

Participants selected for a trade mission will be expected to pay for the cost of personal expenses, including, but not limited to, international travel, lodging, meals, transportation, communication, and incidentals, unless otherwise noted. Participants will, however, be able to take advantage of U.S. Government rates for hotel rooms. In the event that a mission is cancelled, no personal expenses paid in anticipation of a mission will be reimbursed. However, participation fees for a cancelled mission will be reimbursed to the extent they have not already been expended in anticipation of the mission.

If a visa is required to travel on a particular mission, applying for and obtaining such visas will be the responsibility of the mission participant. Government fees and

Rescission of Antidumping Duty Administrative Review; 2014–2015, 82 FR 25766 (June 5, 2017).

processing expenses to obtain such visas are not included in the participation fee. However, the Department of Commerce will provide instructions to each participant on the procedures required to obtain business visas.

Trade Mission members participate in trade missions and undertake mission-related travel at their own risk. The nature of the security situation in a given foreign market at a given time cannot be guaranteed. The U.S. Government does not make any representations or guarantees as to the safety or security of participants. The U.S. Department of State issues U.S. Government international travel alerts and warnings for U.S. citizens available at *https://travel.state.gov/content/passports/en/alertswarnings.html.* Any question regarding insurance coverage must be resolved by the participant and its insurer of choice.

Definition of Small and Medium Sized Enterprise

For purposes of assessing participation fees, the Department of Commerce defines Small and Medium Sized Enterprises (SME) as a firm with 500 or fewer employees or that otherwise qualifies as a small business under SBA regulations (see *http://www.sba.gov/services/contracting opportunities/sizestandardstopics/index.html*). Parent companies, affiliates, and subsidiaries will be considered when determining business size. The dual pricing reflects the Commercial Service's user fee schedule that became effective May 1, 2008 (see *http://www.export.gov/newsletter/march2008/initiatives.html* for additional information).

Mission List: (additional information about each mission can be found at *http://export.gov/trademissions*).

Aerospace Executive Service Trade Mission to the Singapore Airshow, February 5–9, 2018

Summary

The United States Department of Commerce, International Trade Administration is organizing a non-Executive led Aerospace Executive Service Trade Mission (AESTM) to Singapore in conjunction with the Singapore Airshow 2018 (*http://www.singaporeairshow.com*).

The AESTM will include representatives from a variety of U.S. aerospace-industry manufacturers and service providers. The mission participants will be introduced to international agents, distributors and end-users whose capabilities are targeted to each participant's needs.

Mission participants will also be briefed by key local industry leaders who can advise on local market conditions and opportunities.

The mission's goal for the AESTM at the Singapore Airshow is to enhance the presence of U.S. exporters at the show. The AESTM will enable U.S. aerospace and defense companies to familiarize themselves with this important air show, conduct market research, and explore export opportunities through pre-screened meetings with potential partners.

Schedule

Sunday, February 4, 2018

—Arrival of AESTM participants

Monday, February 5, 2018

—One-on-one business matchmaking appointments
—Networking Session with members of the Association of Aerospace Industries (Singapore)
—Briefing at the designated hotel on AESTM event logistics
—Breakfast Market Briefing for SA2016 exhibitors

Tuesday, February 6, 2018

—Singapore Airshow participation
—Attend U.S. Pavilion Ribbon Cutting Ceremony with U.S. VIP participation

Wednesday, February 7, 2018

—Singapore Airshow participation
—Show Time Business to Government Meeting Program

Thursday, February 8, 2018

—Singapore Airshow participation
—Show Time Business to Government Meeting Program

Friday, February 9, 2018

—Singapore Airshow participation
—Show Time Business to Government Meeting Program
—Program Concludes

Participation Requirements

All companies interested in participating in the AESTM at the Singapore Airshow must complete and submit an application for consideration by the Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. A minimum of ten and a maximum of 15 companies will be selected to participate in the mission from the applicant pool. Participants may include companies that are new to or have previously participated in the AESTM. U.S. companies already doing business in Singapore or elsewhere in the Asia-Pacific region as well as U.S. companies seeking to enter those markets for the first time may apply.

Fees and Expenses

After a company has been selected to participate on the mission, a payment to the Department of Commerce in the form of a participation fee is required. The participation fee will be $2,750 for a small or medium-sized enterprise (SME) and $3,450 for large firms.* The fee for each additional firm representative (large firm or SME) is $300. Expenses for travel to and from Singapore, lodging, meals, and incidentals will be the responsibility of each mission participant.

Conditions for Participation

- An applicant must submit a completed mission application and supplemental application materials, including adequate information on the company's products and/or services, primary market objectives, and goals for participation. If the Department of Commerce receives an incomplete application, the Department may reject the application, request additional information, or take the lack of information into account when evaluating the applications.
- Each applicant must also certify that the products and services it seeks to export through the mission are either produced in the United States, or, if not, marketed under the name of a U.S. firm and have at least 51 percent U.S. content of the value of the finished product or service.

Selection Criteria for Participation

- Suitability of the company's products or services to the Asia Pacific markets.
- Applicant's potential for business in Asia Pacific, including likelihood of exports resulting from the mission.
- Consistency of the applicant's goals and objectives with the stated scope of the mission.

Payment must be made by December 1, 2017, otherwise USDOC reserves the rights to exclude applicants from the AESTM program.

Referrals from political organizations and any documents containing references to partisan political activities

* An SME is defined as a firm with fewer than 500 employees or that otherwise qualifies as a small business under SBA regulations (see *https://www.sba.gov/contracting/getting-started-contractor/make-sure-you-meet-sba-size-standards/small-business-size-regulations#regulations*). Parent companies, affiliates, and subsidiaries will be considered when determining business size. The dual pricing reflects the Commercial Service's user fee schedule that became effective April 12, 2017 (see *http://trade.gov/fees/ for additional information).*

(including political contributions) will be removed from an applicant's submission and not considered during the selection process.

Timeline for Recruitment

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register** and posting on the Commerce Department trade missions calendar—*http://export.gov/trademissions/*—and other Internet Web sites, publication in domestic trade publications and association newsletters, mailings from internal mailing lists, faxes to internal aerospace clients, emails to aerospace distribution lists, and promotion at industry meetings, symposia, conferences, trade shows, and other events. The ITA Aerospace and Defense Technology Team members in U.S. Export Assistance Centers will have the lead in recruiting the AESTM.

Recruitment for the mission will begin immediately and conclude no later than December 1, 2017. The U.S. Department of Commerce will evaluate applications and inform applicants of selection decisions periodically during the recruitment period. All applications received subsequent to an evaluation date will be considered at the next evaluation. Applications received after December 1, 2017, will be considered only if space and scheduling constraints permit.

Contacts

Jason Sproule, Senior International Trade Specialist, U.S. Commercial Service—Los Angeles, U.S. Department of Commerce, Phone: +1–213–894–8785, Email: *jason.sproule@trade.gov*

Hawcheng Ng, Commercial Specialist, U.S. Embassy Singapore, U.S. Department of Commerce, Phone: +011–65–6476–9037, Email: *hawcheng.ng@trade.gov*

Frank Spector,

Senior Advisor for Trade Missions.

[FR Doc. 2017–19797 Filed 9–15–17; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–861]

Certain Polyethylene Terephthalate Resin From India: Rescission of Antidumping Duty Administrative Review; 2015/2017

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

SUMMARY: The Department of Commerce (the Department) is rescinding the administrative review of the antidumping duty order on certain polyethylene terephthalate resin from India, based on the timely withdrawal of request for review. The period of review (POR) is October 15, 2015, through April 30, 2017.

DATES: Applicable September 18, 2017.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney, 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) 482–4475.

SUPPLEMENTARY INFORMATION:

Background

On May 1, 2017, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order [1] of certain polyethylene terephthalate resin from India for the POR October 15, 2015, through April 30, 2017.[2] On May 31, 2017, the Department received a timely request for an administrative review from Ester Industries Ltd. (Ester), in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b).[3] No other parties requested an administrative review. Pursuant to Ester's review request and in accordance with 19 CFR 351.221(c)(1)(i), on July 6, 2017, the Department published in the **Federal Register** a notice of initiation of an administrative review covering Ester.[4] However, on July 17, 2017, Ester withdrew its request for an administrative review.[5]

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the party, or parties, that requested a review withdraws the requests within 90 days of the publication of the notice of initiation of the requested review. As noted above, Ester withdrew its request for review by the 90-day deadline, and no other party requested an administrative review of this order. Therefore, in response to the timely withdrawal of the request for review, and in accordance with 19 CFR 351.213(d)(1), the Department is rescinding this review.

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appraisement instructions to CBP 15 days after the publication of this notice in the **Federal Register**.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or 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

[1] *See Certain Polyethylene Terephthalate Resin from Canada, the People's Republic of China, India, and the Sultanate of Oman: Amended Final Affirmative Antidumping Determination (Sultanate of Oman) and Antidumping Duty Orders,* 81 FR 27979 (May 6, 2016).

[2] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 82 FR 20315 (May 1, 2017).

[3] *See* Ester letter to Secretary of Commerce, ''Ester Industries Ltd: Request for Administrative Review of Anti-Dumping Duty Administrative Review,'' dated May 31, 2017.

[4] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 82 FR 31292 (July 6, 2017).

[5] *See* Ester letter to Secretary of Commerce, ''Polyethylene Terephthalate Resin from India: Withdrawal Request for Review—Ester Industries Ltd,'' dated July 17, 2017.

with the regulations and terms of an APO is a sanctionable violation.

This notice is published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: September 12, 2017.

James Maeder,

Senior Director performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2017–19772 Filed 9–15–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–882]

Certain Cold-Rolled Steel Flat Products From the Republic of Korea: Correction to the Opportunity To Request Administrative Review Notice

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

FOR FURTHER INFORMATION CONTACT: Brian Davis, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–7924.

SUPPLEMENTARY INFORMATION:

Background

On September 1, 2017, the Department published its opportunity to request administrative review of antidumping or countervailing duty orders, findings, or suspended investigations, as appropriate, for the September 2017 anniversary month.[1] The *Initiation Notice* included a reference to the countervailing duty order on certain cold-rolled steel flat products from the Republic of Korea, and identified the period of review for that order as July 1, 2016, through December 31, 2016.[2] However, the correct period of review is July 29, 2016, through December 31, 2016. The Department is hereby correcting the *Initiation Notice* to address this error. This correction to the notice of initiation of administrative review is issued and published in accordance with sections 751(a) and 777(i)(1) of the Tariff Act of 1930, as amended.

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 82 FR 41595 (September 1, 2017) (*Initiation Notice*).

[2] *Id.* at 41597.

Dated: September 12, 2017.

James Maeder,

Senior Director performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2017–19770 Filed 9–15–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF692

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Groundfish Management Team (GMT) will hold a week-long work session that is open to the public.

DATES: The GMT meeting will be held Monday, October 2, 2017, from 1 p.m. (Pacific Daylight Time) until business for the day is completed. The GMT meeting will reconvene Tuesday, October 3 through Thursday, October 5, 2017, from 8:30 a.m. until business for each day has been completed.

ADDRESSES: The meeting will be held at the Pacific Council, Large Conference Room, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Ms. Kelly Ames, Pacific Council; phone: (503) 820–2426.

SUPPLEMENTARY INFORMATION: The primary purpose of the GMT meeting is to develop recommendations for consideration by the Pacific Council at its November 14–20, 2017 meeting in Costa Mesa, California. Specific agenda topics include the development of the 2019–2020 harvest specifications and management measures including rebuilding analyses. The GMT may also address other groundfish and administrative agenda items scheduled for the November Council meeting. A detailed agenda will be available on the Council's Web site prior to the meeting. No management actions will be decided by the GMT.

Although nonemergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The public listening station is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt at (503) 820–2411 at least 10 business days prior to the meeting date.

Dated: September 13, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–19745 Filed 9–15–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF693

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Coastal Pelagic Species Management Team (CPSMT) will hold a meeting that is open to the public.

DATES: The CPSMT meeting will be held Tuesday, October 3 through Thursday, October 5, 2017. The meeting will begin at 9 a.m. on October 3, and 8:30 a.m. each other day. The meeting will go until 5 p.m. each day or until business for each day has been completed.

ADDRESSES: The meeting will be held in the Krill Conference Room of the NOAA Southwest Fisheries Science Center, 8901 La Jolla Shores Dr., La Jolla, CA 92037–1508.

FOR FURTHER INFORMATION CONTACT: Kerry Griffin, Pacific Council; telephone: (503) 820–2409.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to discuss several items relevant to coastal pelagic species (CPS) management. These include CPS Fishery Management Plan housekeeping updates, anchovy abundance and reference points, completion of the CPS Stock

Assessment and Fishery Evaluation document, future meeting planning, and administrative items. Public comment may be taken at the discretion of the CPSMT Chair.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Dale Sweetnam; email: *dale.sweetnam@noaa.gov*; phone: (858) 546–7170 at least 10 days prior to the meeting date.

Dated: September 13, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–19746 Filed 9–15–17; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Renew Collection Number 3038–0062, Off-Exchange Foreign Currency Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (''CFTC'' or ''Commission'') is announcing an opportunity for public comment on the proposed renewal of a collection of certain information by the agency. Under the Paperwork Reduction Act (''PRA''), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on the collections of information provided for by part 5 of the Commission's regulations under the Commodity Exchange Act (''CEA'') relating to off-exchange foreign currency transactions.

DATES: Comments must be submitted on or before November 17, 2017.

ADDRESSES: You may submit comments, identified by ''Off-Exchange Foreign Currency Transactions,'' and Collection Number 3038–0062 by any of the following methods:

- The Agency's Web site, at *http://comments.cftc.gov/.* Follow the instructions for submitting comments through 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. Please submit your comments using only one method.
- *Federal eRulemaking Portal: http://www.regulations.gov/.* Follow the instructions for submitting comments through the Portal.

Please submit your comments using only one method.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.*

FOR FURTHER INFORMATION CONTACT: Lauren Bennett, Special Counsel, 202–418–5290, *lbennett@cftc.gov,* Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission.

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of Information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed collection of information listed below. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Title: Off-Exchange Foreign Currency Transactions (OMB Control No. 3038–0062). This is a request for an extension of a currently approved information collection.

Abstract: Part 5 of the Commission's regulations under the CEA establishes rules applicable to retail foreign exchange dealers (''RFEDs''), futures commission merchants (''FCMs''), introducing brokers (''IBs''), commodity trading advisors (''CTAs''), and commodity pool operators (''CPOs'') engaged in the offer and sale of off-exchange forex contracts to retail customers. Specifically:

- *Regulation 5.5* requires RFEDs, FCMs, and IBs to distribute risk disclosure statements to new retail forex customers.
- *Regulation 5.6* requires RFEDs and FCMs to report any failures to maintain the minimum capital required by Commission regulations.
- *Regulation 5.8* requires RFEDs and FCMs to calculate their total retail forex obligation.
- *Regulation 5.10* requires RFEDs to maintain and preserve certain risk assessment documentation.
- *Regulation 5.11(a)(1)* requires RFEDs to submit certain risk assessment documentation to the Commission within 60 days of the effective date of their registration.
- *Regulation 5.11(a)(2)* requires RFEDs to submit certain financial documentation to the Commission within 105 calendar days of the end of each fiscal year. RFEDs must also submit additional information, if requested, regarding affiliates' financial impact on an RFED's organizational structure.
- *Regulation 5.12(a)* requires RFED applicants to submit a Form 1–FR–FCM concurrently with their registration application.
- *Regulation 5.12(b)* requires registered RFEDs to file a Form 1–FR–FCM on a monthly and annual basis.
- *Regulation 5.12(g)* states that, in the event that an RFED cannot file its Form 1–FR–FCM for any period within the time specified in Regulation 5.12(b), the RFED may file an application for an extension of time with its self-regulatory organization.
- *Regulation 5.13(a)* requires RFEDs and FCMs to provide monthly account statements to their customers.
- *Regulation 5.13(b)* requires RFEDs and FCMs to provide confirmation statements to their customers within one business day after the execution of any retail forex or forex option transaction.
- *Regulation 5.14* requires RFEDs and FCMs to maintain current ledgers of each transaction affecting its asset, liability, income, expense and capital accounts.
- *Regulation 5.18(g)* requires each RFED, FCM, CPO, CTA, and IB subject

to part 5 to maintain a record of all communications received that give rise to possible violations of the Act, rules, regulations or orders thereunder related to their retail forex business.

• *Regulation 5.18(i)* requires each RFED and FCM to prepare and maintain on a quarterly basis a calculation of non-discretionary retail forex customer accounts open for any period of time during the quarter that were profitable, and the percentage of such accounts that were not profitable.

• *Regulation 5.18(j)* requires the CCO of each RFED and FCM to certify annually that the firm has in place processes to establish, maintain, review, modify and test policies and procedures reasonably designed to achieve compliance with the Act, rules, regulations and orders thereunder.

• *Regulation 5.19* requires each RFED, FCM, CPO, CTA, and IB subject to part 5 to submit to the Commission copies of any dispositive or partially dispositive decision for which a notice of appeal has been filed in any material legal proceeding (1) to which the firm is a party to or to which its property or assets is subject with respect to retail forex transactions, or (2) instituted against any person who is a principal of the firm arising from conduct in such person's capacity as a principal of that firm.

• *Regulation 5.20* requires RFEDs, FCMs and IBs to submit documentation requested pursuant to certain types of special calls by the Commission.

• *Regulation 5.23* requires RFEDs, FCMs and IBs to notify the Commission regarding bulk transfers and bulk liquidations of customer accounts.

The rules establish reporting and recordkeeping requirements that are necessary to implement the provisions of the Food, Conservation, and Energy Act of 2008 [1] regarding off-exchange transactions in foreign currency with members of the public. The rules are intended to promote customer protection by providing safeguards against irresponsible or fraudulent business practices.[2]

With respect to the collection of information, the CFTC invites comments on:

• Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;

• The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Ways to enhance the quality, usefulness, and clarity of the information to be collected; and

• Ways to minimize the burden of 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.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov*. You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[3]

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

Burden Statement: The Commission is revising its estimate of the burden for this collection to reflect the current number of affected registrants and revised burden estimates. Accordingly, the respondent burden for this collection is estimated to be as follows:

Number of Registrants: 169.

Estimated Average Burden Hours per Registrant: 777.

Estimated Aggregate Burden Hours: 131,259.

Frequency of Recordkeeping: As applicable.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: September 12, 2017.

Robert N. Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2017–19749 Filed 9–15–17; 8:45 am]

BILLING CODE 6351–01–P

[1] Public Law 110–246, 122 Stat. 1651, 2189–220 (2008).

[2] *See* Regulation of Off-Exchange Retail Foreign Exchange Transactions and Intermediaries, 75 FR 55410, 55416 (Sept. 10, 2010).

[3] 17 CFR 145.9.

DEPARTMENT OF DEFENSE

Department of the Air Force

Air University Board of Visitors Meeting

AGENCY: Air University Board of Visitors, Department of Air Force.

ACTION: Notice of meeting.

Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces that the Air University Board of Visitors' fall meeting will take place on Monday, 13 November 2017, from 8:00 a.m. to approximately 5 p.m. and Tuesday, 14 November, 2017, from 7:30 a.m. to approximately 3:00 p.m. Central Standard Time. The meeting will be held in the Air University Commander's Conference Room located in Building 800 at Maxwell Air force Base, AL. The purpose of this meeting is to provide independent advice and recommendations on matters pertaining to the educational, doctrinal, and research policies and activities of Air University.

The agenda will include topics relating to the policies, programs, and initiatives of Air University educational programs and will include an out brief from the Air Force Institute of Technology and Community College of the Air Force Subcommittees.

Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.155 all sessions of the Air University Board of Visitors' meetings' will be open to the public. Any member of the public wishing to provide input to the Air University Board of Visitors' should submit a written statement in accordance with 41 CFR 102–3.140(c) and section 10(a)(3) of the Federal Advisory Committee Act and the procedures described in this paragraph. Written statements can be submitted to the Designated Federal Officer at the address detailed below at any time.

Statements being submitted in response to the agenda mentioned in this notice must be received by the Designated Federal Officer at the address listed below at least ten calendar days prior to the meeting which is the subject of this notice. Written statements received after this date may not be provided to or considered by the Air University Board of Visitors until its next meeting. The Designated Federal Officer will review all timely submissions with the Air

University Board of Visitors' Board Chairperson and ensure they are provided to members of the Board before the meeting that is the subject of this notice. Any member of the public wishing to attend this meeting should contact the Designated Federal Officer listed below at least ten calendar days prior to the meeting for information on base entry procedures.

FOR FURTHER INFORMATION CONTACT: Dr. Shawn O'Mailia, Designated Federal Officer, Air University Headquarters, 55 LeMay Plaza South, Maxwell Air Force Base, Alabama 36112–6335, telephone (334) 953–4547.

Henry Williams,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2017–19758 Filed 9–15–17; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2014–0016]

Submission for OMB Review; Comment Request

AGENCY: Marine Junior Reserve Officer's Training Corps (MCJROTC), DoD.

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by October 18, 2017.

ADDRESSES: Comments and recommendations on the proposed information collection should be emailed to Ms. Jasmeet Seehra, DoD Desk Officer, at *Oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: Individual MCJROTC Instructor Evaluation Summary; NAVMC 10942; OMB Control Number 0703–0016.

Type of Request: Reinstatement.

Number of Respondents: 509.

Responses per Respondent: 1.

Annual Responses: 509.

Average Burden per Response: 30 minutes.

Annual Burden Hours: 254.5 hours.

Needs and Uses: The information collection requirement is necessary to provide a written record of the overall performance of duty of MCJROTC instructors who are responsible for implementing the MCJROTC curriculum. The individual MCJROTC Instructor Evaluation Summary is completed by principles to evaluate the effectiveness of individual MCJROTC instructors. The form is further used as a performance related counseling tool and as a record of service performance to document performance and growth of individual MCJROTC instructors. Evaluating the performance of instructors is essential in ensuring that they provide quality training.

Affected Public: Individuals or Households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Mr. Frederick Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at WHS/ESD Directives Division, 4800 Mark Center Drive, East Tower, Suite 03F09, Alexandria, VA 22350–3100.

Dated: September 13, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–19751 Filed 9–15–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

Board of Advisors to the Presidents of the Naval Postgraduate School and the Naval War College; Notice of Federal Advisory Committee Meeting

AGENCY: Department of the Navy, Board of Advisors to the Presidents of the Naval Postgraduate School and the Naval War College, Department of Defense

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that the following Federal Advisory Committee meeting of the Board of Advisors (BOA) to the Presidents of the Naval Postgraduate School (NPS) and the Naval War College (NWC) will take place.

DATES: Day 1—Open to the public Wednesday, October 18, 2017, from 9:00 a.m. to 5 p.m. Day 2—Open to the public Thursday, October 19, 2017, from 9:00 a.m. to 12 p.m.

ADDRESSES: The meeting will be held at 3003 Washington Boulevard, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Jacquelyn (Jaye) Panza, 831–656–2514 (Voice), 831–656–2337 (Facsimile), *jpanza@nps.edu* (Email). Mailing address is Naval Postgraduate School, 1 University Circle, Monterey, CA 93943–5001. Web site: *https://my.nps.edu/web/board-of-advisors/home.* The most up-to-date changes to the meeting agenda may be found on the Web site.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150.

Purpose of the Meeting: The Committee examines the effectiveness with which the NPS and the NWC are accomplishing its missions.

Agenda: Board of Advisors to the Presidents of the Naval Postgraduate School and the Naval War College Committee (NPS/NWC BOA) and its two subcommittees will be held. This meeting will be open to the public. For more information about the Committee, please visit *http://my.nps.edu/web/board-of-advisors.* 1. October 18, 2017, 9:00 a.m.–12:00 p.m.: The NPS BOA Subcommittee will meet to inquire into programs and curricula; instruction; administration; state of morale of the student body, faculty, and staff; fiscal

affairs of NPS. The committee will review any other matters relating to the operations of the NPS as the board considers pertinent. 2. October 18, 2017, 1:00 p.m.–5:00 p.m.: General deliberations and inquiry by the NWC BOA Subcommittee into NWC programs and mission priorities; re-accreditation review; administration; military construction; leader development continuum; defense planning guidance efforts; and any other matters relating to the operations of the NWC as the board considers pertinent. 3. October 19, 2017, 9:00 a.m.–12:00 p.m.: The NPS and NWC Subcommittees will provide out briefs from their meetings to the NPS/NWC BOA Committee after which the Committee will discuss topics raised during the subcommittee sessions.

Meeting Accessibility: Meeting room is fully accessible to persons with disabilities in compliance with applicable disability rights laws.

Written Statements: For access, information, or to send written statements for consideration at the committee meeting contact Ms. Jaye Panza, Designated Federal Official, Naval Postgraduate School, 1 University Circle, Monterey, CA 93943–5001 or by fax 831–656–2337 by October 12, 2017.

Dated: September 12, 2017.

A.M. Nichols,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2017–19764 Filed 9–15–17; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0072]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Integrated Partner Management (IPM) System

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before October 18, 2017.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2017–ICCD–0072. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 216–34, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Integrated Partner Management (IPM) System.

OMB Control Number: 1845–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: State, Local, and Tribal Governments; Private Sector.

Total Estimated Number of Annual Responses: 9,220.

Total Estimated Number of Annual Burden Hours: 7,890.

Abstract: Federal Student Aid has developed the Integrated Partner Management (IPM) system. IPM is the new solution for application processing and financial reporting, that will replace 3 legacy applications. Consolidation of these applications will improve timeliness, data integrity and Department's analysts' ability to get a comprehensive view from one application as opposed to the current disjointed views across multiple applications. The new IPM system will include the application for approval for institutions and financial partners (including lenders) to participate in Federal Student Financial Aid programs. The IPM system will also allow institutions and financial partners participating in the Title IV HEA programs to submit the required audited financial statements and compliance audits. IPM includes significant advances to both partners and FSA analysts in the process used for providing oversight to FSA partners in the Title IV and improvements in the tools and technologies currently in place. IPM will transition a process that is currently heavily paper based to an easy to navigate, automated work-flow process. Under the IPM system the institutions log into a secure Department Web site, enter information pertaining to their eligibility, audit and finances and attach electronic documents to support eligibility, audit and financial statement submissions.

Dated: September 13, 2017.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–19769 Filed 9–15–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

National Petroleum Council Meeting

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of open meeting; correction.

SUMMARY: The Department of Energy (DOE) published in the **Federal Register** on September 11, 2017, a notice of an open meeting for the National Petroleum Council. The notice is being corrected for the street address. Agenda items will stay the same.

Correction

In the **Federal Register** of September 11, 2017, in FR DOC. 2017–19096, on page 42664, make the following corrections:

In the **ADDRESSES** heading, first column, first paragraph, first line, correct address to, ''800 Sixteenth Street NW.,''

Issued in Washington, DC, on September 12, 2017.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2017–19747 Filed 9–15–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Agency Information Collection Extension

AGENCY: U.S. Department of Energy.

ACTION: Submission for Office of Management and Budget (OMB) review; comment request.

SUMMARY: The Department of Energy (DOE) has submitted an information collection request to the OMB for an extension under the provisions of the Paperwork Reduction Act of 1995. The DOE requests a three-year extension of its ''Privacy Act Administration'' information collection (formerly titled ''Records and Administration''), OMB Control Number 1910–1700. The information collection and collection instrument aids DOE's processing of Privacy Act requests submitted by an individual or an authorized representative, wherein he or she requests records that the government may maintain pertaining to that individual. The DOE's use of this form continues to contribute to DOE's Privacy Act processes, including, but not limited to, providing for faster processing of Privacy Act information requests by asking individuals or their authorized representatives for pertinent information needed for records retrieval. DOE published a 60-day Notice and Request for Comments concerning this collection in the **Federal Register** on April 10, 2017. No comments were received in response to the 60-day notice.

DATES: Comments regarding this collection must be received on or before October 18, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, please advise the OMB Desk Officer of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at 202–395–4718.

ADDRESSES: Written comments should be sent to the DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street NW., Washington, DC 20503 and to Ken Hunt, Chief Privacy Officer, U.S. Department of Energy, 1000 Independence Avenue SW., Rm. 8H–085, Washington, DC 20585 or by facsimile at 202–586–8151 or by email at *privacy@hq.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Ken Hunt, Chief Privacy Officer, U.S. Department of Energy, 1000 Independence Avenue SW., Rm. 8H–085, Washington, DC 20585 or by facsimile at 202–586–8151 or by email at *privacy@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) OMB No. 1910–1700; (2) Information Collection Request Title: Privacy Act Administration (formerly titled ''Records and Administration''); (3) Type of Request: Regular; (4) Purpose: The Privacy Act Information Request form aids DOE's processing of Privacy Act requests submitted by an individual or an authorized representative, wherein he or she requests records that the government may maintain pertaining to that individual. The DOE's use of this form continues to contribute to DOE's Privacy Act processes, including, but not limited to, providing for faster processing of Privacy Act information requests by asking individuals or their authorized representatives for pertinent information needed for records retrieval; (5) Annual Estimated Number of Respondents: 135; (6) Annual Estimated Number of Total Responses: 135; (7) Annual Estimated Number of Burden Hours: 45; (8) Annual Estimated Reporting and Recordkeeping Cost Burden: $0.

Statutory Authority: The Privacy Act of 1974, 5 U.S.C. 552(a); 10 CFR 1008.7; and DOE Order 206.1.

Issued in Washington, DC, on July 19, 2017.

Allan K. Manuel,

Deputy Chief Information Officer for Enterprise Policy, Portfolio Management, and Governance, Office of the Chief Information Officer.

[FR Doc. 2017–19768 Filed 9–15–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Notice of Request for Information on Solar Energy Technology Analysis & Data Needs

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

ACTION: Notice of request for information.

SUMMARY: The U.S. Department of Energy (DOE) invites public comment on its Request for Information (RFI) number DE–FOA–0001818 regarding the Solar Energy Technology Analysis & Data Needs. DOE's Solar Energy Technologies Office (SETO) is requesting input on integrated data and analysis needs across the solar value chain to inform near to mid-term plans for the development of resources such as information based network planning, real time optimization, and bankability tools in the context of DOE's SunShot 2030 goals. SETO aims to better understand the information-related problems and questions that exist for key stakeholders, including manufacturers, project developers, financiers, engineering procurement and construction businesses, state and local jurisdictions, researchers, analysts, and others supporting the technological advancement and wide scale adoption of solar technology.

DATES: Responses to the RFI must be received by October 6, 2017.

ADDRESSES: Interested parties are to submit comments electronically to *solaranalysis@ee.doe.gov* no later than 5:00 p.m. (ET) on October 6, 2017. Include Solar Energy Technology Analysis & Data Needs in the subject of the title. Responses must be provided as attachments to an email and only electronic responses will be accepted. Please identify your answers by responding to a specific question or topic if applicable. Respondents may answer as many or as few questions as they wish. Respondents are requested to provide the following information at the start of their response to this RFI:

- Company/institution name;
- Company/institution contact;
- Contact's address, phone number, and email address.

The complete RFI document is located at *https://eere-exchange.energy.gov/.*

FOR FURTHER INFORMATION CONTACT: Questions may be addressed to Dr. Casey Canfield, ORISE Fellow, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Solar Energy Technologies Office, EE–4S, 1000 Independence Ave. SW., Washington, DC 20585. Telephone: 202–287–1783. Email: *solaranalysis@ee.doe.gov.* Further instruction can be found in the RFI document posted on EERE Exchange.

SUPPLEMENTARY INFORMATION: SETO is requesting information about (1) how the U.S. solar industry and application

space use and value existing resources, (2) needs that can be addressed with data access, research, and analysis, and (3) opportunities to better engage stakeholders on the use and development of these resources. Over the past three years, a variety of high-quality informational resources on solar energy technology have been created by a diverse group of organizations, including universities, consultants, companies, technology developers, and the national laboratories. By cataloguing the specific information resources that the industry relies on, SETO hopes to better understand the vision driving innovation and identify gaps in knowledge creation or exchange. SETO is also interested in understanding the channels through which stakeholders access information so that future SETO-funded analysis can be disseminated as widely and effectively as possible. In addition, SETO is interested in understanding to what degree stakeholders are interested in being engaged in the development process of new tools and resources.

The RFI is available at: *https://eere-exchange.energy.gov/.*

Confidential Business Information

Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well marked copies: One copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

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

Issued in Washington, DC, on September 12, 2017.

Ebony Vauss,

Acting Director, Solar Energy Technologies Office, Energy Efficiency and Renewable Energy.

[FR Doc. 2017–19775 Filed 9–15–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–1850–007; ER11–1846–007; ER11–1847–007; ER11–1848–007; ER11–2598–010; ER13–1192–004.

Applicants: Direct Energy Business, LLC, Direct Energy Business Marketing, LLC, Direct Energy Marketing Inc., Direct Energy Services, LLC, Gateway Energy Services Corporation, Energy America, LLC.

Description: Second Supplement to June 28, 2017 Northeast Region Triennial Report of the Direct Energy Sellers.

Filed Date: 9/8/17.

Accession Number: 20170908–5132.

Comments Due: 5 p.m. ET 9/29/17.

Docket Numbers: ER17–1191–003.

Applicants: Otter Tail Power Company.

Description: Tariff Amendment: Amendment to Submit Restated Conforming Agreement—Rate Schedule No. 151 to be effective 7/30/2010.

Filed Date: 9/8/17.

Accession Number: 20170908–5054.

Comments Due: 5 p.m. ET 9/29/17.

Docket Numbers: ER17–2152–000.

Applicants: Cottonwood Wind Project, LLC.

Description: Amendment to July 26, 2017 Cottonwood Wind Project, LLC tariff filing.

Filed Date: 9/7/17.

Accession Number: 20170907–5205.

Comments Due: 5 p.m. ET 9/28/17.

Docket Numbers: ER17–2203–001.

Applicants: Arizona Public Service Company.

Description: Tariff Amendment: Service Agreement Nos. 218 and 335—Revision to be effective 7/1/2017.

Filed Date: 9/7/17.

Accession Number: 20170907–5184.

Comments Due: 5 p.m. ET 9/28/17.

Docket Numbers: ER17–2322–001.

Applicants: Nexus Energy Inc.

Description: Tariff Amendment: Nexus Energy Market-based Rate Tariff v2 to be effective 11/1/2017.

Filed Date: 9/8/17.

Accession Number: 20170908–5002.

Comments Due: 5 p.m. ET 9/29/17.

Docket Numbers: ER17–2449–000.

Applicants: Public Service Company of New Hampshire.

Description: § 205(d) Rate Filing: Rate Schedule No. IA–ES–37 Interconnection Agreement Between PSNH and Pontook to be effective 12/16/2016.

Filed Date: 9/7/17.

Accession Number: 20170907–5186.

Comments Due: 5 p.m. ET 9/28/17.

Docket Numbers: ER17–2450–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Cancellation: Notice of Cancellation of Service Agreement No. 3153, Queue No. W1–029 to be effective 8/22/2017.

Filed Date: 9/8/17.

Accession Number: 20170908–5093.

Comments Due: 5 p.m. ET 9/29/17.

Docket Numbers: ER17–2451–000.

Applicants: Alabama Power Company.

Description: § 205(d) Rate Filing: Camilla Solar Energy LGIA Filing to be effective 8/29/2017.

Filed Date: 9/8/17.

Accession Number: 20170908–5130.

Comments Due: 5 p.m. ET 9/29/17.

Docket Numbers: ER17–2452–000.

Applicants: Pacific Gas and Electric Company.

Description: § 205(d) Rate Filing: Amendment to Wholesale Distribution Tariff GIP, SGIA, and LGIA to be effective 9/9/2017.

Filed Date: 9/8/17.

Accession Number: 20170908–5140.

Comments Due: 5 p.m. ET 9/29/17.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES17–55–000.

Applicants: Kentucky Utilities Company.

Description: Application under Section 204 of the Federal Power Act of Kentucky Utilities Company.

Filed Date: 9/7/17.

Accession Number: 20170907–5195.

Comments Due: 5 p.m. ET 9/28/17.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RD17–8–000.

Applicants: North American Electric Reliability Corporation, Reliability First Corporation.

Description: Joint Petition of the North American Electric Reliability Corporation and ReliabilityFirst Corporation for Approval of Proposed Regional Reliability Standard BAL–502–RF–03.

Filed Date: 9/7/17.

Accession Number: 20170907–5201.

Comments Due: 5 p.m. ET 10/10/17.

Docket Numbers: RD17–9–000.

Applicants: North American Electric Reliability Corporation, SERC Reliability Corporation.

Description: Joint Petition of the North American Electric Reliability Corporation, et. al. for Approval of Proposed Regional Reliability Standard PRC–006–SERC–02.

Filed Date: 9/8/17.

Accession Number: 20170908–5127.

Comments Due: 5 p.m. ET 10/10/17.

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: September 8, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–19722 Filed 9–15–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–492–000]

Texas Gas Transmission, LLC; Notice of Request Under Blanket Authorization

Take notice that on September 5, 2017, Texas Gas Transmission, LLC (Texas Gas), located at 9 Greenway Plaza, Suite 2800, Houston, Texas 77046 filed a Prior Notice Request pursuant to Sections 157.205 and 157.216 of the Federal Energy Regulatory Commission's regulations under the Natural Gas Act, and Texas Gas' blanket certificate issued in Docket No. CP82–407–001, for authorization to (i) plug and abandon Injection/Withdrawal Well No. 17378, (ii) abandon in place approximately 1,050 feet of 4.5-inch storage well lateral line, and (iii) abandon by removal the side valve and associated above-ground equipment in its Midland Storage Field located in Muhlenberg County, Kentucky, 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.

Any questions regarding this Application should be directed to Kathy D. Fort, Manager, Certificates and Tariffs, Texas Gas Transmission, LLC, 610 West Second Street, Owensboro, Kentucky 42301, telephone no. (270) 688–6825, facsimile no. (270) 688–6896, or email to *kathy.fort@bwpmlp.com.*

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 an original and 5 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE., Washington, DC 20426.

Dated: September 12, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–19732 Filed 9–15–17; 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: EC17–175–000.

Applicants: Caney River Wind Project, LLC, Rocky Ridge Wind Project, LLC.

Description: Joint Application for Authorization under Section 203 for the Disposition of Jurisdictional Facilities, Request for Expedited Consideration and Confidential Treatment of Caney River Wind Project, LLC, et al.

Filed Date: 9/8/17.

Accession Number: 20170908–5162.

Comments Due: 5 p.m. ET 9/29/17.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER17–2036–001.
Applicants: Florida Power & Light Company.
Description: Tariff Amendment: FPL Response to Deficiency Letter and Request for Shortened Comment Period to be effective 10/31/2017.
Filed Date: 9/11/17.
Accession Number: 20170911–5016.
Comments Due: 5 p.m. ET 10/2/17.

Docket Numbers: ER17–2453–000.
Applicants: Imperial Valley Solar 3, LLC.
Description: Baseline eTariff Filing: Imperial Valley Solar 3, LLC MBR Tariff to be effective 9/9/2017.
Filed Date: 9/8/17.
Accession Number: 20170908–5160.
Comments Due: 5 p.m. ET 9/29/17.

Docket Numbers: ER17–2454–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1518R13 Arkansas Electric Cooperative Corp NITSA NOA to be effective 9/1/2017.
Filed Date: 9/11/17.
Accession Number: 20170911–5021.
Comments Due: 5 p.m. ET 10/2/17.

Docket Numbers: ER17–2455–000.
Applicants: Southwestern Public Service Company.
Description: § 205(d) Rate Filing: SPS–WILD–E&P Agrmt–697–0.0.0 to be effective 9/12/2017.
Filed Date: 9/11/17.
Accession Number: 20170911–5022.
Comments Due: 5 p.m. ET 10/2/17.

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: September 11, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–19726 Filed 9–15–17; 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 Numbers: RP17–1026–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: Section 4(d) Rate Filing: 09/06/17 Negotiated Rates—Direct Energy Business Marketing, LLC R–7465–07 to be effective 11/1/2017.
Filed Date: 9/6/17.
Accession Number: 20170906–5047.
Comments Due: 5 p.m. ET 9/18/17.

Docket Numbers: RP17–1027–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: Section 4(d) Rate Filing: 09/06/17 Negotiated Rates—ENSTOR Energy Services, LLC R–7305–02 to be effective 11/1/2017.
Filed Date: 9/6/17.
Accession Number: 20170906–5048.
Comments Due: 5 p.m. ET 9/18/17.

Docket Numbers: RP17–1028–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: Section 4(d) Rate Filing: 09/06/17 Negotiated Rates—Consolidated Edison Company of New York R–560–16 to be effective 11/1/2017.
Filed Date: 9/6/17.
Accession Number: 20170906–5049.
Comments Due: 5 p.m. ET 9/18/17.

Docket Numbers: RP17–1029–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: Section 4(d) Rate Filing: 09/06/17 Negotiated Rates—Hartree Partners, LP (HUB) 7090–89 to be effective 11/1/2017.
Filed Date: 9/6/17.
Accession Number: 20170906–5131.
Comments Due: 5 p.m. ET 9/18/17.

Docket Numbers: RP17–1030–000.
Applicants: Equitrans, L.P.
Description: Compliance filing Notice Regarding Non-Jurisdictional Gathering Facilities (PEB–371 & PEG–82).
Filed Date: 9/6/17.
Accession Number: 20170906–5148.
Comments Due: 5 p.m. ET 9/18/17.

Docket Numbers: RP17–1031–000.
Applicants: Florida Public Utilities Company, CITY OF PENSACOLA, FLORIDA.
Description: Joint Petition for Temporary Waivers of Capacity Release Regulations and Related Tariff Provisions and Request for Expedited Action and Shortened Comment Period of Florida Public Utilities Company, et al. under RP17–1031.
Filed Date: 9/7/17.
Accession Number: 20170907–5196.
Comments Due: 5 p.m. ET 9/14/17.

Docket Numbers: RP11–2473–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Report Filing: 2016 Cash Pool Filing.
Filed Date: 9/8/17.
Accession Number: 20170908–5071.
Comments Due: 5 p.m. ET 9/20/17.

Docket Numbers: RP11–2474–000.
Applicants: Gulf Crossing Pipeline Company LLC.
Description: Report Filing: 2016 Cash Pool Filing.
Filed Date: 9/8/17.
Accession Number: 20170908–5072.
Comments Due: 5 p.m. ET 9/20/17.

Docket Numbers: RP17–1032–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: Section 4(d) Rate Filing: 09/08/17 Negotiated Rates—Twin Eagle Resource Management R–7300–06 to be effective 11/1/2017.
Filed Date: 9/8/17.
Accession Number: 20170908–5074.
Comments Due: 5 p.m. ET 9/20/17.

Docket Numbers: RP17–1033–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: Section 4(d) Rate Filing: 09/08/17 Negotiated Rates—Mercuria Energy America, Inc. R–7540–12 to be effective 11/1/2017.
Filed Date: 9/8/17.
Accession Number: 20170908–5078.
Comments Due: 5 p.m. ET 9/20/17.

Docket Numbers: RP17–1034–000.
Applicants: Rockies Express Pipeline LLC.
Description: Section 4(d) Rate Filing: Neg Rate 2017–09–07 Triad Hunter (2) to be effective 9/8/2017.
Filed Date: 9/8/17.
Accession Number: 20170908–5109.
Comments Due: 5 p.m. ET 9/20/17.

Docket Numbers: RP17–1035–000.
Applicants: National Fuel Gas Supply Corporation.
Description: Section 4(d) Rate Filing: Minor Revisions and Housekeeping Changes (2017) to be effective 10/8/2017.
Filed Date: 9/8/17.
Accession Number: 20170908–5152.
Comments Due: 5 p.m. ET 9/20/17.

Docket Numbers: RP17–974–001.
Applicants: Garden Banks Gas Pipeline, LLC.
Description: Tariff Amendment: Garden Banks Supplemental LINK Filing to be effective 10/1/2017.

Filed Date: 9/8/17.
Accession Number: 20170908–5069.
Comments Due: 5 p.m. ET 9/15/17.

Docket Numbers: RP17–976–001.
Applicants: Mississippi Canyon Gas Pipeline, L.L.C.
Description: Tariff Amendment: Miss Canyon LINK Supplemental Filing to be effective 10/1/2017.
Filed Date: 9/8/17.
Accession Number: 20170908–5070.
Comments Due: 5 p.m. ET 9/15/17.

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: September 11, 2017.

Nathaniel J. Davis, Sr.

Deputy Secretary.

[FR Doc. 2017–19724 Filed 9–15–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL17–84–000]

PJM Interconnection, L.L.C.; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On September 8, 2017, an order was issued in Docket No. EL17–84–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation into the justness and reasonableness of Hudson Transmission Partners, L.L.C. (HTP) being unable to convert its Firm Transmission Withdrawal Rights to Non-Firm Transmission Withdrawal Rights.[1]

The refund effective date in Docket No. EL17–84–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL17–84–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214, within 21 days of the date of issuance of the order.

Dated: September 8, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–19725 Filed 9–15–17; 8:45 am]

BILLING CODE 6717–01–P

[1] *PJM Interconnection, L.L.C.,* 160 FERC 61,056 (2017).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP17–1023–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 09/5/17 Negotiated Rates—DTE Energy Trading, Inc. R–1830–14 to be effective 11/1/2017.
Filed Date: 9/5/17.
Accession Number: 20170905–5123.
Comments Due: 5 p.m. ET 9/18/17.

Docket Numbers: RP17–1024–000.
Applicants: Sabal Trail Transmission, LLC.
Description: § 4(d) Rate Filing: Non-conforming Agreement—Duke Contract No. 850002 to be effective 10/1/2017.
Filed Date: 9/5/17.
Accession Number: 20170905–5137.
Comments Due: 5 p.m. ET 9/18/17.

Docket Numbers: RP17–1025–000.
Applicants: Dogwood Energy, LLC, Kansas Municipal Energy Agency.
Description: Request for Waiver and Expedited Action of Dogwood Energy, LLC, et. al. and Kansas Municipal Energy Agency.
Filed Date: 9/5/17.
Accession Number: 20170905–5155.
Comments Due: 5 p.m. ET 9/18/17.

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: September 6, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–19723 Filed 9–15–17; 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 rate filings:

Docket Numbers: ER17–2109–001.
Applicants: PJM Interconnection, L.L.C., Old Dominion Electric Cooperative.
Description: Compliance filing: Compliance Filing per 8/31/17 Order in Docket No. ER17–2109–000 to be effective 7/1/2017.
Filed Date: 9/12/17.
Accession Number: 20170912–5034.
Comments Due: 5 p.m. ET 10/3/17.

Docket Numbers: ER17–2456–000.
Applicants: Ohio Power Company.
Description: § 205(d) Rate Filing: OPCo-Fremont Energy Center Facilities Agreement Cancellation to be effective 9/30/2017.
Filed Date: 9/11/17.
Accession Number: 20170911–5101.
Comments Due: 5 p.m. ET 10/2/17.

Docket Numbers: ER17–2457–000.
Applicants: Rock Creek Wind Project, LLC.
Description: Baseline eTariff Filing: MBR Tariff to be effective 9/15/2017.
Filed Date: 9/12/17.
Accession Number: 20170912–5031.
Comments Due: 5 p.m. ET 10/3/17.

Docket Numbers: ER17–2458–000.
Applicants: Public Service Company of Colorado.
Description: § 205(d) Rate Filing: 20170911_Yampa Valley 2nd Amended Cleanup Filing to be effective 4/28/2017.
Filed Date: 9/12/17.
Accession Number: 20170912–5086.

Comments Due: 5 p.m. ET 10/3/17.

Docket Numbers: ER17–2459–000.

Applicants: American Transmission Systems, Incorporation, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: ATSI Submits Engineering and Construction Services Agreement No. 4712 to be effective 11/11/2017.

Filed Date: 9/12/17.

Accession Number: 20170912–5089.

Comments Due: 5 p.m. ET 10/3/17.

Docket Numbers: ER17–2460–000.

Applicants: Public Service Company of Colorado.

Description: § 205(d) Rate Filing: 20170911_IREA 4th Amended Cleanup Filing to be effective 4/28/2017.

Filed Date: 9/12/17.

Accession Number: 20170912–5092.

Comments Due: 5 p.m. ET 10/3/17.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES17–25–000; ES17–26–000; ES17–27–000; ES17–28–000; ES17–29–000; ES17–30–000.

Applicants: Entergy Arkansas, Inc., Entergy Louisiana, LLC, Entergy Mississippi, Inc., Entergy New Orleans, Inc., Entergy Texas, Inc., System Energy Resources, Inc.

Description: Supplement to April 28, 2017 Joint Application for Authorizations under FPA Section 204 of Entergy Arkansas, Inc., *et al.*

Filed Date: 9/1/17.

Accession Number: 20170901–5232.

Comments Due: 5 p.m. ET 9/22/17.

Docket Numbers: ES17–56–000.

Applicants: Georgia Power Company.

Description: Application for Borrowing Authority of Georgia Power Company.

Filed Date: 9/12/17.

Accession Number: 20170912–5069.

Comments Due: 5 p.m. ET 10/3/17.

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: September 12, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–19727 Filed 9–15–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meetings

The following notice of meeting is published pursuant to section 3(a) of the government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

TIME AND DATE: September 20, 2017, 10:00 a.m.

PLACE: Room 2C, 888 First Street NE., Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda * Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kimberly D. Bose, Secretary, Telephone (202) 502–8400.

For a recorded message listing items struck from or added to the meeting, call (202) 502–8627.

This is a list of matters to be considered by the Commission. It does not include a listing of all documents relevant to the items on the agenda. All public documents, however, may be viewed on line at the Commission's Web site at *http://www.ferc.gov* using the eLibrary link, or may be examined in the Commission's Public Reference Room.

1035TH MEETING—REGULAR MEETING

[September 20, 2017 10:00 a.m.]

Item No.	Docket No.	Company
	ADMINISTRATIVE	
A–1	AD16–1–000	Agency Administrative Matters.
A–2	AD16–7–000	Customer Matters, Reliability, Security and Market Operations.
	ELECTRIC	
E–1	RM16–13–000	Balancing Authority Control, Inadvertent Interchange, and Facility Interconnection Reliability Standards.
E–2	RM16–20–000	Remedial Action Schemes Reliability Standard.
E–3	RM17–12–000	Emergency Preparedness and Operations Reliability Standards.
E–4	ER16–2656–000, ER16–2656–001, ER16–2656–002, ER16–2656–003.	Arizona Public Service Company.
E–5	ER17–388–000	SunZia Transmission, LLC.
E–6	ER16–1564–000	The AES Corporation.
E–7	ER17–933–000	Exelon Generation Company, LLC.
E–8	EL00–66–021	Louisiana Public Service Commission and the Council for the City of New Orleans v. Entergy Services, Inc.
E–9	ER09–1158–000	Delmarva Power & Light Company.
E–10	EL17–46–000	Basin Electric Power Cooperative.
E–11	ER17–387–001	Midcontinent Independent System Operator, Inc.
E–12	ER17–1302–000	Midcontinent Independent System Operator, Inc.
E–13	ER17–1303–000	Midcontinent Independent System Operator, Inc.
E–14	ER17–1304–000	Midcontinent Independent System Operator, Inc.
E–15	ER17–1305–000	Midcontinent Independent System Operator, Inc.
E–16	ER17–1332–000	Midcontinent Independent System Operator, Inc.
E–17	ER17–1306–000	PJM Interconnection, L.L.C.

1035TH MEETING—REGULAR MEETING—Continued

[September 20, 2017 10:00 a.m.]

Item No.	Docket No.	Company
E–18	OMITTED	
E–19	ER17–1333–000	Southwest Power Pool, Inc.
E–20	ER17–520–000	Southwest Power Pool, Inc.
E–21	ER17–772–000, ER17–772–001, ER17–772–002.	Southwest Power Pool, Inc.
E–22	EL17–34–000	Alcoa Corporation.
E–23	ER16–2320–001	Pacific Gas and Electric Company.
	GAS	
G–1	OMITTED.	
G–2	RP17–349–000	Black Marlin Pipeline Company.
G–3	RP17–519–000	Texas Eastern Transmission, LP.
G–4	OR13–14–002	Western Refining Pipeline, LLC.
	HYDRO	
H–1	P–12569–014	Public Utility District No. 1 of Okanogan County, Washington.
H–2	P–12628–013	City of Nashua, Iowa.
H–3	P–2114–289	Public Utility District No. 2 of Grant County, Washington.
H–4	P–2197–112, P–2197–113	Alcoa Power Generating Inc., Cube Yadkin Generation LLC.
H–5	P–2197–110	Alcoa Power Generating Inc., Cube Yadkin Generation LLC.
H–6	P–2114–286, P–2114–287	Public Utility District No. 2 of Grant County, Washington.

Issued: September 13, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

A free webcast of this event is available through *www.ferc.gov.* Anyone with Internet access who desires to view this event can do so by navigating to *www.ferc.gov*'s Calendar of Events and locating this event in the Calendar.

The event will contain a link to its webcast. The Capitol Connection provides technical support for the free webcasts. It also offers access to this event via television in the DC area and via phone bridge for a fee. If you have any questions, visit *www.CapitolConnection.org* or contact Danelle Springer or David Reininger at 703–993–3100.

Immediately following the conclusion of the Commission Meeting, a press briefing will be held in the Commission Meeting Room. Members of the public may view this briefing in the designated overflow room. This statement is intended to notify the public that the press briefings that follow Commission meetings may now be viewed remotely at Commission headquarters, but will not be telecast through the Capitol Connection service.

[FR Doc. 2017–19870 Filed 9–14–17; 11:15 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9966–42–OAR]

Allocations of Cross-State Air Pollution Rule Allowances From New Unit Set-Asides for the 2017 Compliance Year

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of data availability (NODA).

SUMMARY: The Environmental Protection Agency (EPA) is providing notice of the availability of data on emission allowance allocations to certain units under the Cross-State Air Pollution Rule (CSAPR). EPA has completed final calculations for the first round of allocations of allowances from the CSAPR new unit set-asides (NUSAs) for the 2017 control periods and has posted spreadsheets containing the calculations on EPA's Web site. The only change from the preliminary calculations is the elimination of allocations of CSAPR SO_2 Group 2 allowances to four units in Georgia that for purposes of the preliminary calculations were incorrectly identified as new units instead of existing units.

DATES: September 18, 2017.

FOR FURTHER INFORMATION CONTACT: Questions concerning this action should be addressed to Robert Miller at (202) 343–9077 or *miller.robertl@epa.gov* or to Kenon Smith at (202) 343–9164 or *smith.kenon@epa.gov.*

SUPPLEMENTARY INFORMATION: Under each CSAPR trading program where EPA is responsible for determining emission allowance allocations, a portion of each state's emissions budget for the program for each control period is reserved in a NUSA (and in an additional Indian country NUSA in the case of states with Indian country within their borders) for allocation to certain units that would not otherwise receive allowance allocations. Each NUSA allowance allocation process involves up to two rounds of allocations to eligible units, termed ''new'' units, followed by the allocation to ''existing'' units of any allowances not allocated to new units.[1] In a NODA published in the **Federal Register** on June 21, 2017 (82 FR 28243), we provided notice of preliminary calculations for the first-round 2017 NUSA allowance allocations. We also described the process for submitting any objections to the preliminary calculations. This NODA concerns the final calculations for this round of 2017 NUSA allocations.

EPA received written objections from four parties in response to the June 21

[1] The procedures for annually allocating allowances from each NUSA to eligible units are set forth in the CSAPR regulations at 40 CFR 97.411(b) and 97.412 (CSAPR NO_X Annual Trading Program), 97.511(b) and 97.512 (CSAPR NO_X Ozone Season Group 1 Trading Program), 97.611(b) and 97.612 (CSAPR SO_2 Group 1 Trading Program), 97.711(b) and 97.712 (CSAPR SO_2 Group 2 Trading Program), and 97.811(b) and 97.812 (CSAPR NO_X Ozone Season Group 2 Trading Program).

NODA.[2] For the reasons discussed below, we have concluded that none of the written objections provides a valid basis for altering the preliminary calculations of NUSA allowance allocations.

The first written objection was submitted by a representative for a combustion turbine that commenced commercial operation in 2007 in simple cycle configuration and that in 2016 was modified to combined cycle configuration through the installation of additional equipment including a heat recovery steam generator, duct burners, and a steam turbine. According to the objection, the additional equipment should be treated for CSAPR purposes as a separate, new affected unit that is eligible for allocations of CSAPR NUSA allowances.[3]

EPA disagrees with this objection based primarily on our interpretation of the CSAPR definitions of ''combustion turbine'' and ''unit.'' The CSAPR definition of ''combustion turbine'' covers two possible equipment configurations—the equipment required for simple cycle operation, consisting of a compressor, combustor, and turbine, and the equipment required for combined cycle operation, consisting of the preceding equipment plus a heat recovery steam generator, duct burners (if any), and a steam turbine.[4] The facility in question meets the CSAPR definition of ''combustion turbine'' both before and after the addition of the new equipment described above; the effect of adding the new equipment is simply to cause the facility to meet a different provision of the definition. Nothing in the definition suggests that the addition of equipment to a given facility that causes a different provision of the definition to apply should be interpreted as splitting that facility into two separate combustion turbines, as the objection claims. Moreover, our interpretation that the facility in question remains a single combustion turbine is strongly supported by the CSAPR definition of ''unit,'' which encompasses a ''combustion turbine'' and further states in relevant part that ''[a] unit that undergoes a physical change . . . shall continue to be treated as the same unit.'' [5] The objection asserts that this definition means that only the original equipment is ''the same unit,'' while the additional equipment comprising the ''physical change'' is a separate unit, but we disagree. To the contrary, we believe a plain reading of the definition indicates that a unit to which a physical change has been made remains ''the same unit'' but with a physical change.

In summary, we interpret the CSAPR regulations as providing that the facility in question remains the same, single ''combustion turbine'' for CSAPR purposes after the addition of the new equipment as it was before the addition of the new equipment.[6] Because we do not agree that the additional equipment should be treated as a separate, new affected unit for CSAPR purposes, it is unnecessary to address the portions of the objection concerning the quantities of NUSA allowances for which such a new unit theoretically would be eligible.

The second and third written objections were submitted by representatives of two facilities whose units are treated as new units for purposes of the original CSAPR trading programs but are treated as existing units for purposes of the more recent CSAPR NO_X Ozone Season Group 2 trading program. The units in question commenced commercial operation in 2011 and 2012 and their owners have identified them as affected by CSAPR. In the CSAPR rulemaking finalized in 2011 that established the original four CSAPR trading programs, EPA determined that all likely affected units that commenced commercial operation prior to January 1, 2010 should be treated as existing units for purposes of these four trading programs.[7] In the CSAPR Update rulemaking finalized in 2016 that established the CSAPR NO_X Ozone Season Group 2 Trading Program, we determined that all likely affected units that commenced commercial operation prior to January 1, 2015 should be treated as existing units for purposes of this trading program.[8] Under these criteria, the units in question are new units for purposes of the original four CSAPR trading programs and existing units for purposes of the CSAPR NO_X Ozone Season Group 2 Trading Program. The facilities' representatives object to the units' classification as existing units under this last trading program and request that the units be classified instead as new units eligible for allocations of NUSA allowances under this program.

As noted above, allocations of NUSA allowances under the CSAPR NO_X Ozone Season Group 2 Trading Program are governed by 40 CFR 97.811(b) and 97.812. The regulations provide a detailed set of procedures that EPA must follow when allocating NUSA allowances, including procedures for identifying the units eligible for each round of NUSA allocations for each control period. Under § 97.811(b)(1)(ii)(B), objections to our preliminary calculations of first-round allocations ''shall be limited to addressing whether the calculations (including the identification of the CSAPR NO_X Ozone Season Group 2 units) are in accordance with § 97.812(a)(2) through (7) and (12) and §§ 97.830 through 97.835''—in other words, whether the calculations (including identification of eligible units) have been performed in accordance with the detailed procedures set forth in the regulations. The objections to the June 21 NODA fall outside this narrow scope. The January 1, 2015 cutoff date used to determine whether a particular unit is an existing unit for purposes of this trading program was established as part of the CSAPR Update rulemaking and can be revised only through another rulemaking. The process of allocating NUSA allowances is strictly an administrative process that implements regulations already in effect, not a

[2] A fifth written objection was withdrawn prior to EPA's drafting of this notice.

[3] The objection seeks NUSA allocations of CSAPR NO_X Annual, CSAPR SO_2 Group 2, and CSAPR NO_X Ozone Season Group 2 allowances. However, the facility is located in Kansas, and allocations of 2017 CSAPR NO_X Annual allowances to units in Kansas are governed by a SIP revision rather than by the allocation procedures in the federal CSAPR regulations. 81 FR 42256 (June 29, 2016). EPA therefore addresses the objection only as it relates to allowances for the remaining two programs.

[4] The full definition states: ''*Combustion turbine* means an enclosed device comprising: (1) If the device is simple cycle, a compressor, a combustor, and a turbine and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine; and (2) If the device is combined cycle, the equipment described in paragraph (1) of this definition and any associated duct burner, heat recovery steam generator, and steam turbine.'' 40 CFR 97.702, 97.802.

[5] The full definition states: ''*Unit* means a stationary, fossil-fuel-fired boiler, stationary, fossil-fuel-fired combustion turbine, or other stationary, fossil-fuel-fired combustion device. A unit that undergoes a physical change or is moved to a different location or source shall continue to be treated as the same unit. A unit (the replaced unit) that is replaced by another unit (the replacement unit) at the same or a different source shall continue to be treated as the same unit, and the replacement unit shall be treated as a separate unit.'' 40 CFR 97.702, 97.802.

[6] EPA further notes that the facility's representatives have not complied with multiple CSAPR requirements that would apply if the additional equipment in fact did constitute a separate, new affected unit for CSAPR purposes. For example, they have not submitted a certificate of representation identifying the additional equipment as a new affected unit, *see* 40 CFR 97.415(d), 97.715(d), 97.815(d), have not submitted a monitoring plan identifying such a new unit (or identifying the new stack as a common stack serving multiple units), *see* §§ 97.434(b), 97.734(b), 97.834(b), and have not reported any separate hourly emissions or heat input data for such a new unit, *see* §§ 97.434(d), 97.734(d), 97.834(d).

[7] 76 FR 48208, 48288–91 (August 8, 2011).

[8] 81 FR 74504, 74563–66 (October 26, 2016).

rulemaking process in which regulations may be revised.

EPA has confirmed that the units in question are not eligible to receive allocations of NUSA allowances under the regulations for the CSAPR NO_X Ozone Season Group 2 Trading Program. Under § 97.812(a)(3), first-round allocations are determined for ''each CSAPR NO_X Ozone Season Group 2 unit described in paragraph (a)(1) of this section''—*i.e.,* § 97.812(a)(1). This paragraph of the regulations identifies three categories of units eligible for first-round allocations: First, units that have not been allocated allowances as existing units pursuant to § 97.811(a)(1); second, units that have been allocated allowances as existing units from a given state's budget for a given control period but have lost those allocations under the trading program's correction provisions (because the units either are not located in that state or are not subject to the program at the start of that control period); and third, units that have ceased operation for a sufficient length of time to lose their allocations as existing units and have subsequently resumed operation.[9] As discussed above, the units in question meet the criteria established in the CSAPR Update rulemaking to be considered existing units for purposes of the CSAPR NO_X Ozone Season Group 2 Trading Program, and the units accordingly have been allocated allowances as existing units pursuant to § 97.811(a)(1). The units do not fall within one of the categories of units eligible for NUSA allocations as set forth in § 97.812(a)(1), and the regulations do not provide us with the authority either to grant exceptions for individual units or to identify additional categories of eligible units beyond those set forth in § 97.812(a)(1).

As an alternative to having the facility's units reclassified as new units for purposes of the CSAPR NO_X Ozone Season Group 2 Trading Program, the third written objection also seeks modifications to the data used to compute the units' allocations of allowances as *existing* units under that program. However, like the January 1, 2015 cutoff date, EPA's determinations of which data should be used to determine allowance allocations to existing units were made in the CSAPR Update rulemaking [10] and can be revised only through another rulemaking, not through the administrative process of allocating NUSA allowances. The objection is therefore outside the scope of the June 21 NODA.

Finally, the fourth written objection seeks modifications to the total amount of the NUSA for Oklahoma under the CSAPR NO_X Ozone Season Group 2 Trading Program. Again, EPA's determinations regarding the NUSA total amounts were made in the CSAPR Update rulemaking; further, the actual amounts are codified in the CSAPR regulations.[11] The total amount of the NUSA for Oklahoma can be revised only through another rulemaking, not through the administrative process of allocating NUSA allowances, so the objection is outside the scope of the June 21 NODA.

In addition to the written objections discussed above, EPA also received a telephone inquiry that led to the discovery of an error in the preliminary calculations for NUSA allocations of CSAPR SO_2 Group 2 allowances. Specifically, because of incorrect processing of a change in the plant code used to identify certain existing units at the Wansley power plant in Georgia, Wansley CC units 6A, 6B, 7A, and 7B were incorrectly identified as new units eligible to receive NUSA allocations. We have corrected the error and these units are not allocated allowances as new units in the final calculations.

The final unit-by-unit data and allowance allocation calculations are set forth in Excel spreadsheets titled ''CSAPR_NUSA_2017_NOx_Annual_1st_Round_Final_Data'', ''CSAPR_NUSA_2017_NOx_OS_1st_Round_Final_Data'', and ''CSAPR_NUSA_2017_SO2_1st_Round_Final_Data'', available on EPA's Web site at *https://www.epa.gov/csapr/csapr-compliance-year-2017-nusa-nodas.* The three spreadsheets show our final determinations of first-round 2017 NUSA allocations under the CSAPR NO_X annual, CSAPR NO_X ozone season (Group 1 and Group 2), and CSAPR SO_2 (Group 1 and Group 2) trading programs, respectively.

EPA notes that an allocation or lack of allocation of allowances to a given unit does not constitute a determination that CSAPR does or does not apply to the unit. We also note that allocations are subject to potential correction.

(Authority: 40 CFR 97.411(b), 97.511(b), 97.611(b), 97.711(b), and 97.811(b).)

[9] *See* § 97.812(a)(1)(i), (ii), and (iii), respectively.

[10] *See* 81 FR at 74564–65.

[11] *See* 81 FR at 74565; 40 CFR 97.810(a)(17)(ii).

Dated: July 27, 2017.

Karen L. Orehowsky,

Acting Director, Clean Air Markets Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 2017–19822 Filed 9–15–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9967–48–ORD; Docket ID No. EPA–HQ–ORD–2017–0496, ORD–2017–0497, ORD–2014–0526]

Availability of the Integrated Risk Information System (IRIS) Assessment Plans for Nitrate/Nitrite, Chloroform, and Ethylbenzene

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public comment period.

SUMMARY: The Environmental Protection Agency (EPA) is announcing a 30-day public comment period associated with the draft IRIS Assessment Plans for Nitrate/Nitrite, Chloroform, and Ethylbenzene. These documents communicate information on the scoping needs identified by EPA program and regional offices and the IRIS Program's initial problem formulation activities. Specifically, the assessment plans outline the objectives for each assessment and the type of evidence considered most pertinent to address the scoping needs.

EPA is releasing these draft IRIS Assessment Plans for public comment. These assessment plans will also be discussed during the September 27–28 Science Advisory Board (SAB) Chemical Assessment Advisory Committee (CAAC) peer consultation meeting. These documents were prepared by the National Center for Environmental Assessment (NCEA) within EPA's Office of Research and Development (ORD).

DATES: The 30-day public comment period begins September 18, 2017, and ends October 18, 2017. Comments must be received on or before October 18, 2017.

ADDRESSES: The IRIS Assessment Plan for Nitrate/Nitrite, will be available via the Internet on IRIS' Recent Additions at *http://www.epa.gov/iris/iris-recent-additions* and in the public docket at *http://www.regulations.gov,* Docket ID: EPA–HQ–ORD–2017–0496.

The IRIS Assessment Plan for Chloroform will be available via the Internet on IRIS' Recent Additions at *http://www.epa.gov/iris/iris-recent-additions* and in the public docket at

http://www.regulations.gov, Docket ID: EPA–HQ–ORD–2017–0497.

The IRIS Assessment Plan for Ethylbenzene will be available via the Internet on IRIS' Recent Additions at *http://www.epa.gov/iris/iris-recent-additions* and in the public docket at *http://www.regulations.gov,* Docket ID: EPA–HQ–ORD–2014–0526.

FOR FURTHER INFORMATION CONTACT: For information on the public comment period, contact the ORD Docket at the EPA Headquarters Docket Center; telephone: 202–566–1752; facsimile: 202–566–9744; or email: *Docket_ORD@epa.gov.*

For technical information on the IRIS Assessment Plans, contact Dr. James Avery, NCEA; telephone: 703–347–8668; or email: *avery.james@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background Information on IRIS Assessment Plans

EPA's IRIS Program is a human health assessment program that evaluates quantitative and qualitative risk information on effects that may result from exposure to chemicals found in the environment. Through the IRIS Program, EPA provides the highest quality science-based human health assessments to support the Agency's regulatory activities and decisions to protect public health. As part of scoping and initial problem formulation activities prior to the development of a draft assessment, the IRIS Program carries out a broad, preliminary literature survey to assist in identifying health effects that have been studied in relation to the chemical or substance of interest as well as science issues that may need to be considered when evaluating its toxicity. This information, in conjunction with scoping needs identified by EPA program and regional offices, are used to inform the development of an IRIS Assessment Plan (IAP).

The IAP communicates to the public the plan for reviewing each individual chemical assessment and includes summary information on the IRIS Program's scoping and initial problem formulation, objectives and specific aims for the assessment, and a PECO (Population, Exposure, Comparators, and Outcomes) framework for the systematic review. The PECO provides the framework for developing literature search strategies and inclusion/exclusion criteria, particularly with respect to evidence stream (*i.e.,* human, animal, mechanistic), exposure measures and outcome measures. The IAP serves to inform the subsequent development of chemical specific systematic review protocols, which will be made publicly available. For more information, visit EPA's IRIS Program Web site at *https://www.epa.gov/iris.*

II. How To Submit Technical Comments to the Docket at *www.regulations.gov*

Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2017–0496 for Nitrate/Nitrite, EPA–HQ–ORD–2017–0497 for Chloroform, and EPA–HQ–ORD–2014–0526 for Ethylbenzene, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: Docket_ORD@epa.gov.*
- *Fax:* 202–566–9744.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center (ORD Docket), Mail Code: 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460. The phone number is 202–566–1752.
- *Hand Delivery:* The ORD Docket is located in the EPA Headquarters Docket Center, EPA West Building, Room 3334, 1301 Constitution Avenue NW., Washington, DC.

The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202–566–1744. Deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. If you provide comments by mail or hand delivery, please submit three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.

Instructions: Direct your comments to EPA–HQ–ORD–2017–0496 for Nitrate/Nitrite, EPA–HQ–ORD–2017–0497 for Chloroform, and EPA–HQ–ORD–2014–0526 for Ethylbenzene. Please ensure that your comments are submitted within the specified comment period. Comments received after the closing date will be marked ''late,'' and may only be considered if time permits. It is EPA's policy to include all comments it receives in the public docket without change and to make the comments available online at *www.regulations.gov,* including any personal information provided, unless a comment includes information claimed to be Confidential Business Information (CBI) or other information for which disclosure is restricted by statute. Do not submit information through *www.regulations.gov* or email that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *www.epa.gov/epahome/dockets.htm.*

Docket: Documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other materials, such as copyrighted material, are publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the ORD Docket in the EPA Headquarters Docket Center.

Dated: August 30, 2017.

Mary Ross,

Director, National Center for Environmental Assessment.

[FR Doc. 2017–19707 Filed 9–15–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

AGENCY: Federal Election Commission.

DATE AND TIME: Wednesday, September 20, 2017 at 9:30 a.m.

PLACE: 999 E Street NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Draft Advisory Opinion 2017–10: Citizens for Plutocracy

Management and Administrative Matters

Individuals who plan to attend and require special assistance, such as sign

language interpretation or other reasonable accommodations, should contact Dayna C. Brown, Secretary and Clerk, at (202) 694–1040, at least 72 hours prior to the meeting date.

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Dayna C. Brown,

Secretary and Clerk of the Commission.

[FR Doc. 2017–19955 Filed 9–14–17; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL MARITIME COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Federal Maritime Commission.

TIME AND DATE: September 20, 2017; 10:00 a.m.

PLACE: 800 N. Capitol Street NW., First Floor Hearing Room, Washington, DC.

STATUS: The first portion of the meeting will be held in Open Session; the second portion in Closed Session.

Matters To Be Considered:

Portions Open to the Public

1. Briefing by Commissioner Dye on the Supply Chain Innovation Teams and Update from Global Liner Shipping Asia Conference
2. Staff Briefing on Review Process for Carrier and Marine Terminal Operator Agreements

Portions Closed to the Public

1. Staff Update on Petition of the Coalition for Fair Port Practices (P4–16)

CONTACT PERSON FOR MORE INFORMATION: Rachel E. Dickon, Assistant Secretary (202) 523 5725.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2017–19847 Filed 9–14–17; 11:15 am]

BILLING CODE 6731–AA–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 2, 2017.

A. Federal Reserve Bank of Cleveland (Nadine Wallman, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566. Comments can also be sent electronically to *Comments.applications@clev.frb.org:*

1. *SSB Bancorp, Inc.,* Pittsburgh, Pennsylvania; to engage *de novo* in extending credit and servicing loans pursuant to section 225.28(b)(1) of Regulation Y.

B. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *First Internet Bancorp,* Fishers, Indiana; to acquire 9.99 percent of the voting shares of Lendeavor, Inc., San Francisco, California, and thereby engage in extending credit and servicing loans pursuant to section 225.28(b)(1) of Regulation Y.

2. *Iowa State Financial Services Corporation,* Fairfield, Iowa; to continue engaging in extending credit and servicing loans pursuant to section 225.25(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, September 12, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–19681 Filed 9–15–17; 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 September 27, 2017.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *Kenneth Ray Lehman,* Arlington, Virginia; to acquire voting shares of ABB Financial Group, Inc., and thereby indirectly acquire shares of Affinity Bank, both of Atlanta, Georgia.

Board of Governors of the Federal Reserve System, September 12, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–19680 Filed 9–15–17; 8:45 am]

BILLING CODE 6210–01–P

OFFICE OF GOVERNMENT ETHICS

Updated OGE Senior Executive Service Performance Review Board

AGENCY: Office of Government Ethics (OGE).

ACTION: Notice.

SUMMARY: Notice is hereby given of the appointment of members of the updated OGE Senior Executive Service (SES) Performance Review Board.

DATES: September 18, 2017.

FOR FURTHER INFORMATION CONTACT: Shelley K. Finlayson, Chief of Staff and Program Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005–3917; Telephone: 202–482–9300; TYY: 800–877–8339; FAX: 202–482–9237.

SUPPLEMENTARY INFORMATION: 5 U.S.C. 4314(c) requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management at 5 CFR part 430, subpart C and § 430.310 thereof in particular, one or more Senior Executive Service performance review boards. As a small executive branch agency, OGE has just one board. In order to ensure an adequate level of staffing and to avoid a constant series of recusals, the designated members of OGE's SES Performance Review Board are being

drawn, as in the past, in large measure from the ranks of other executive branch agencies. The board shall review and evaluate the initial appraisal of each OGE senior executive's performance by his or her supervisor, along with any recommendations in each instance to the appointing authority relative to the performance of the senior executive. This notice updates the membership of OGE's SES Performance Review Board as it was most recently published at 78 FR 76148 (December 16, 2013).

Approved: September 13, 2017.

David J. Apol,

Acting Director, U.S. Office of Government Ethics.

The following officials have been appointed members of the SES Performance Review Board of the Office of Government Ethics: Shelley K. Finlayson, [Chair], Chief of Staff and Program Counsel, Office of Government Ethics; Stuart Bender, Director, Office of Ethics, U.S. Department of Agriculture; Judith S. Kaleta, Deputy General Counsel, U.S. Department of Transportation; and Shira Pavis Minton, Ethics Counsel, Office of the Ethics Counsel, Securities and Exchange Commission.

[FR Doc. 2017–19835 Filed 9–15–17; 8:45 am]

BILLING CODE 6345–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–17–0888]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Within 30 days of this notice, direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806.

Proposed Project

Factors Influencing the Transmission of Influenza (OMB Control Number 0920–0888; Expired 6–30–2017)—Reinstatement with change—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The National Institute for Occupational Safety and Health (NIOSH) is authorized to conduct research to advance the health and safety of workers under Section 20(a)(1) of the 1970 Occupational Safety and Health Act. Influenza continues to be a major public health concern because of the substantial health burden from seasonal influenza and the potential for a severe pandemic. Although influenza is known to be transmitted by infectious secretions, these secretions can be transferred from person to person in many different ways, and the relative importance of the different pathways is not known. The likelihood of the transmission of influenza virus by small infectious airborne particles produced during coughing and breathing is particularly unclear. The question of airborne transmission is especially important in healthcare facilities, where influenza patients tend to congregate during influenza season, because it directly impacts the infection control and personal protective measures that should be taken by healthcare workers.

Work under the previous approval showed that patients infected with influenza virus produce airborne particles containing viable airborne influenza virus during both breathing and coughing, but that breathing may generate more airborne infectious material than coughing over time. However, this work was hampered because the amounts of influenza virus in almost all of the aerosol samples were below the limit of quantification. Thus, CDC made the following changes to the project:

(1) CDC will modify the cough and exhalation-aerosol collection system to collect aerosol particles continuously for 40 minutes, rather than collecting particles from discrete coughs and exhalations as in the previous study. This will increase the amount of influenza virus that is collected.

(2) Researchers will collect a blood sample from each participant to allow testing for blood markers of influenza infection and a comparison of the levels of these markers to the amount of expelled influenza in aerosol particles.

(3) Researchers increased the time required for participation from 63 minutes to 95 minutes to allow for a longer aerosol collection period and for the blood collection.

(4) Researchers will recruit and test an equal number of control subjects without symptoms of respiratory illness in addition to subjects with influenza-like illness. This will allow the determination of the differences in blood biomarker levels between healthy and infected subjects.

(5) Because of the longer participation time and because blood collection has been found to be a strong disincentive for participation, the token of appreciation for participating in the study has been increased from $25 to $40.

The purpose of the proposed study is to gain a better understanding of the production of infectious aerosols by patients with influenza, and to compare this to the levels of biomarkers of influenza infection in the blood of these patients. To do this, researchers will collect airborne particles produced by volunteer subjects with influenza to test for influenza virus. Researchers will also measure the levels of influenza infection-associated biomarkers in blood samples from these subjects.

A test coordinator will recruit volunteer adult participants by using a poster and flyers describing the study. Researchers will verbally screen interested potential participants to verify that they have influenza-like symptoms and that they do not have any medical conditions that would preclude their participation. Researchers will also recruit a matching number of healthy control participants.

Researchers will ask qualified participants who agree to participate in

the study to read and sign an informed consent form, and then to complete a short health questionnaire. After completing the forms, researchers will measure the participant's oral temperature and collect two nasopharyngeal mucus samples and five ml of blood. The researchers will then ask the participants to don elastomeric masks, and breathe and cough normally for 40 minutes into an aerosol particle collection system. The total time from initial verbal screening to completion will be about 95 minutes.

The study will require 90 volunteer test subjects each year for 3 years, totaling 270 test participants. There are no costs to respondents other than their time. The total number of annual burden hours are 148.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)
Potential participant	Initial verbal screening	180	1	3/60
Qualified participant	Informed consent form	90	1	15/60
Qualified participant	Health questionnaire	90	1	5/60
Qualified participant	Medical testing	90	1	72/60

Leroy Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2017–19748 Filed 9–15–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Clinical Laboratory Improvement Advisory Committee (CLIAC)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the Centers for Disease Control and Prevention (CDC), announces the following meeting for the Clinical Laboratory Improvement Advisory Committee (CLIAC). This meeting is open to the public, limited only by the space available. The meeting room accommodates approximately 100 people. The public is also welcome to view the meeting by webcast *http://cdclabtraining.adobeconnect.com/cliac.*

DATES: The meeting will be held on November 1, 2017, 8:30 a.m. to 5:00 p.m., EDT and November 2, 2017, 8:30 a.m. to 12:00 p.m., EDT.

ADDRESSES: CDC, 2500 Century Center Boulevard, Rooms 1200/1201, Atlanta, Georgia 30345 and *http://cdclab training.adobeconnect.com/cliac.*

FOR FURTHER INFORMATION CONTACT: Nancy Anderson, MMSc, MT(ASCP), Chief, Laboratory Practice Standards Branch, Division of Laboratory Systems, Center for Surveillance, Epidemiology and Laboratory Services, Office of Public Health Scientific Services, Centers for Disease Control and Prevention, 1600 Clifton Road NE., Mailstop F–11, Atlanta, Georgia 30329–4018, telephone (404) 498–2741; *NAnderson@cdc.gov.*

SUPPLEMENTARY INFORMATION: Purpose: This Committee is charged with providing scientific and technical advice and guidance to the Secretary of Health and Human Services (HHS); the Assistant Secretary for Health; the Director, Centers for Disease Control and Prevention; the Commissioner, Food and Drug Administration (FDA); and the Administrator, Centers for Medicare and Medicaid Services (CMS). The advice and guidance pertain to general issues related to improvement in clinical laboratory quality and laboratory medicine practice and specific questions related to possible revision of the Clinical Laboratory Improvement Amendment (CLIA) standards. Examples include providing guidance on studies designed to improve safety, effectiveness, efficiency, timeliness, equity, and patient-centeredness of laboratory services; revisions to the standards under which clinical laboratories are regulated; the impact of proposed revisions to the standards on medical and laboratory practice; and the modification of the standards and provision of non-regulatory guidelines to accommodate technological advances, such as new test methods, the electronic transmission of laboratory information, and mechanisms to improve the integration of public health and clinical laboratory practices.

Matters To Be Considered: The agenda will include agency updates from CDC, Centers for Medicare and Medicaid Services (CMS), and The Food and Drug Administration (FDA). Presentations and discussions will focus on laboratory testing in the era of telemedicine; antibiotic resistance testing issues; culture independent diagnostic tests; and a report from the Institute of Medicine (IOM) CLIAC workgroup. Agenda items are subject to change as priorities dictate.

All people attending the CLIAC meeting in-person are required to register for the meeting online at least 5 business days in advance for U.S. citizens and at least 30 business days in advance for international registrants. Register at: *https://wwwn.cdc.gov/cliac/.* Register by scrolling down and clicking the ''Register for this Meeting'' button and completing all forms according to the instructions given. Please complete all the required fields before submitting your registration and submit no later than October 25, 2017 for U.S. registrants and September 19, 2017 for international registrants.

It is the policy of CLIAC to accept written public comments and provide a brief period for oral public comments on agenda items. Public comment periods for each agenda item are scheduled immediately prior to the Committee discussion period for that item. In general, each individual or group requesting to make oral comments will be limited to a total time of five minutes (unless otherwise indicated). To assure adequate time is scheduled for public comments, speakers should notify the contact person below at least one week prior to the meeting date. For individuals or groups unable to attend the meeting, CLIAC accepts written comments until the date of the meeting (unless otherwise stated). However, it is requested that comments be submitted at least one week prior to the meeting date so that the comments may be made available to the Committee for their consideration and public distribution.

Written comments, one hard copy with original signature, should be provided to the contact person at the mailing or email address below, and will be included in the meeting's Summary Report.

The CLIAC meeting materials will be made available to the Committee and the public in electronic format (PDF) on the internet instead of by printed copy. Check the CLIAC Web site on the day of the meeting for materials: *https://wwwn.cdc.gov/cliac/.*

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. 2017–19498 Filed 9–15–17; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Solicitation of Nominations for Appointment to the Healthcare Infection Control Practices Advisory Committee (HICPAC)

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC) is seeking nominations for membership on the HICPAC. The HICPAC consists of 14 experts in fields including but not limited to, infectious diseases, infection prevention, healthcare epidemiology, nursing, clinical microbiology, surgery, hospitalist medicine, internal medicine, epidemiology, health policy, health services research, public health, and related medical fields. Nominations are being sought for individuals who have expertise and qualifications necessary to contribute to the accomplishments of the committee's objectives. Nominees will be selected based on expertise in the fields of infectious diseases, infection prevention, healthcare epidemiology, nursing, environmental and clinical microbiology, surgery, internal medicine, epidemiology, health policy, health services research, and public health. Federal employees will not be considered for membership. Members may be invited to serve for four-year terms. Selection of members is based on candidates' qualifications to contribute to the accomplishment of HICPAC objectives *https://www.cdc.gov/hicpac/.*

DATES: Nominations for membership on the HICPAC be received no later than November 30, 2017. Packages received after this time will not be considered for the current membership cycle.

ADDRESSES: All nominations should be mailed to HICPAC, Division of Healthcare Quality Promotion, NCEZID, CDC, 1600 Clifton Road NE., Mailstop A–07, Atlanta, Georgia 30333, emailed (recommended) to *hicpac@cdc.gov,* or faxed to (404) 639–4043.

FOR FURTHER INFORMATION CONTACT: Erin Stone, M.S., HICPAC, Division of Healthcare Quality Promotion, NCEZID, CDC, 1600 Clifton Road NE., Mailstop A–07, Atlanta, Georgia 30333; Telephone (404) 639–4045; *hicpac@cdc.gov.*

SUPPLEMENTARY INFORMATION: The U.S. Department of Health and Human Services policy stipulates that committee membership be balanced in terms of points of view represented, and the committee's function. Appointments shall be made without discrimination on the basis of age, race, ethnicity, gender, sexual orientation, gender identity, HIV status, disability, and cultural, religious, or socioeconomic status. Nominees must be U.S. citizens, and cannot be full-time employees of the U.S. Government. Current participation on federal workgroups or prior experience serving on a federal advisory committee does not disqualify a candidate; however, HHS policy is to avoid excessive individual service on advisory committees and multiple committee memberships. Committee members are Special Government Employees, requiring the filing of financial disclosure reports at the beginning and annually during their terms. CDC reviews potential candidates for HICPAC membership each year, and provides a slate of nominees for consideration to the Secretary of HHS for final selection. HHS notifies selected candidates of their appointment near the start of the term in July 2018, or as soon as the HHS selection process is completed. Note that the need for different expertise varies from year to year and a candidate who is not selected in one year may be reconsidered in a subsequent year.

Nominees must be U.S. citizens, and cannot be full-time employees of the U.S. Government. Candidates should submit the following items:

- Current curriculum vitae, including complete contact information (telephone numbers, mailing address, email address)
- At least one letter of recommendation from person(s) not employed by the U.S. Department of Health and Human Services. (Candidates may submit letter(s) from current HHS employees if they wish, but at least one letter must be submitted by a person not employed by an HHS agency (*e.g.,* CDC, NIH, FDA, etc.).

Nominations may be submitted by the candidate him- or herself, or by the person/organization recommending the candidate.

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 CDC 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. 2017–19501 Filed 9–15–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–17–17ABE]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be

collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov*. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Developmental Projects to Improve the National Health and Nutrition Examination Survey and Related Programs—New—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C. 242k), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, shall collect statistics on the extent and nature of illness and disability; environmental, social and other health hazards; and determinants of health of the population of the United States. The Division of Health and Nutrition Examination Surveys (DHNES) has conducted national surveys and related projects periodically between 1970 and 1994, and continuously since 1999.

The mission of DHNES programs is to produce descriptive statistics which measure the health and nutrition status of the general population. The continuous operation of DHNES programs presents unique challenges in testing new survey content and activities, such as outreach or participant screening etc.

This generic request covers developmental projects to help evaluate and enhance DHNES existing and proposed data collection activities to increase research capacity and improve data quality. The information collected through this Generic Information Collection Request will not be used to make generalizable statements about the population of interest or to inform public policy; however, methodological findings from these projects may be reported.

The purpose and use of projects under this NHANES generic clearance would include developmental projects necessary for activities such as testing new procedures, equipment, and approaches that are going to be folded into NHANES; designing and testing examination components or survey questions; creating new studies including biomonitoring and clinical measures; creating new cohorts, including a pregnancy and/or a birth—24 month cohort; testing of the cognitive and interpretive aspects of survey methodology; feasibility testing of proposed new components or modifications to existing components; testing of human-computer interfaces/usability; assessing the acceptability of proposed NHANES components among likely participants; testing alternative approaches to existing NHANES procedures, including activities related to improving nonresponse; testing the use of or variations/adjustments in incentives; testing content of web based surveys; testing the feasibility of obtaining bodily fluid specimens (blood, urine, semen, saliva, breastmilk) and tissue sample (swabs); testing digital imaging technology and related procedures (*e.g.,* retinal scan, liver ultrasound, Dual-energy X-ray absorptiometry (DEXA), prescription and over-the-counter dietary supplements bottles); testing the feasibility of and procedure/processes for accessing participant's medical records from healthcare settings (*e.g.,* hospitals and physician offices); testing the feasibility and protocols for home examination measurements; testing survey materials and procedures to improve response rates, including changes to advance materials and protocols, changes to the incentive structure, introduction of new and timely outreach and awareness procedures including the use of social media; conducting crossover studies; creating and testing digital survey materials; conducting customer satisfaction assessments or surveys.

The types of participants covered by the NHANES generic may include current or past NHANES participants; family or household members of NHANES participants; individuals eligible to be participants in NHANES, but who did not screen into the actual survey; convenience samples; volunteers from the general public; subject matter experts or consultants such as survey methodologist, academic researchers, clinicians or other health care providers; NHANES data or Web site users; individuals abroad who would be part of a collaborative development project(s) between NCHS and related public health agencies and/or public health researchers abroad.

The type of participant involved in a given developmental project would be determined by the nature of the project. The details of each project will be included in the specific GenIC submissions.

There is no cost to respondents other than their time. A three year clearance is requested. The total estimated annualized burden hours are 16,698.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Individuals or households	Developmental Projects, Special Study, Focus Group documents.	3,500	1	3
Volunteers	Developmental Projects & Special Study, Focus Group documents.	600	1	3
NHANES participants	Developmental Projects & Special Study documents	1,400	1	3
Subject Matter Experts	Focus Group/Developmental Project Documents	15	1	1
NHANES web or Data users ..	Customer Satisfaction/Usability Documents	1,100	2	5/60

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2017–19743 Filed 9–15–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–17–0260]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on May 31, 2017 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. The purpose of this notice is to allow an additional 30 days for public comments.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Health Hazard Evaluation and Technical Assistance—Requests and Emerging Problems (OMB Control No. 0920–0260, Expiration Date 11/30/2017)—Revision—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Occupational Safety and Health Act of 1970 and the Federal Mine Safety and Health Act of 1977, mandates the National Institute for Occupational Safety and Health (NIOSH) respond to requests for health hazard evaluations (HHE) to identify chemical, biological or physical hazards in workplaces throughout the United States. Each year, NIOSH receives approximately 290 such requests. Most HHE requests come from the following types of companies: Service, manufacturing, health and social services, transportation, construction, agriculture, mining, skilled trade and construction.

A printed HHE request form is available in English and in Spanish. The form is also available on the Internet and differs from the printed version only in format and in the fact that it can be submitted directly from the Web site. The request form takes an estimated 12 minutes to complete. The form provides the mechanism for employees, employers, and other authorized representatives to supply the information required by the regulations governing the NIOSH HHE program (42 CFR 85.3–1). The information provided is used by NIOSH to determine whether there is reasonable cause to justify conducting an investigation and provides a mechanism to respond to the requestor.

NIOSH reviews the HHE request to determine if an on-site evaluation is needed. The primary purpose of an on-site evaluation is to help employers and employees identify and eliminate occupational health hazards. For 40% of the requests received NIOSH determines an on-site evaluation is needed.

In about 70% of on-site evaluations, employees are interviewed to help further define concerns. Interviews may take approximately 15 minutes per respondent. The interview questions are specific to each workplace and its suspected diseases and hazards.

In approximately 30% of on-site evaluations (presently estimated to be 37 facilities), questionnaires are distributed to the employees (averaging about 100 employees per site). Questionnaires may require approximately 30 minutes to complete. The survey questions are specific to each workplace and its suspected diseases and hazards, however, items in the questionnaires are derived from standardized or widely used medical and epidemiologic data collection instruments.

NIOSH administers a follow-back program to assess the effectiveness of its HHE program in reducing workplace hazards. The first follow-back questionnaire is sent shortly after the first visit for an on-site evaluation and takes about 10 minutes to complete. A second follow-back questionnaire is sent a month after the final report and requires about 20 minutes to complete. At 24 months, a third follow-back questionnaire is sent which takes about 15 minutes to complete. The first and third follow-back questionnaires have had minor re-wording of questions to improve the ease of responding with no change in information requested or estimated time to complete. The second follow-back questionnaire has added new questions regarding final report content and format. This accounts for the additional 5 minute increase in estimated completion time from the 2014 revision of the second follow-back questionnaire.

For requests where NIOSH does not conduct an on-site evaluation, the requestor receives the first follow-back questionnaire 1 month after our report and a second one 12 months after our response. The first questionnaire takes about 10 minutes to complete and the second questionnaire takes about 15 minutes to complete. No changes other that for some minor re-wording of questions have been made. No additional information is collected and the time estimates for completion remain unchanged.

Minimal changes have been made to the request form for Health Hazard Evaluations. The revisions made in this package are minor re-wording of questions contained in four of the five follow-back questionnaires to improve the ease of responding by the questionnaire recipients.

There is no cost to respondents other than their time. The total estimated annual burden hours are 2,959. This is 61 hours less than the 3,020 hours

approved for the 2014 revision. This reflects both a slight decrease in the anticipated number of Health Hazard Evaluation requests (300 to 290) as well as changes in the response requirements of requests received based upon recent program experience.

Type of respondent	Form	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Employees/employee representatives/or employers.	Health Hazard Evaluation Request Form	290	1	12/60
Employees	Health Hazard Evaluation specific interview example.	2,580	1	15/60
Employees	Health Hazard Evaluation specific questionnaire example.	3,700	1	30/60
Employees	Employee Contact Postcard	2,150	1	5/60
Follow-back for onsite evaluations—employer & employee representative Year 1.	Initial Site Visit Followback Survey form	244	1	10/60
Employer & employee representative Year 1	Closeout for Health Hazard Evaluation Followback Survey with site visit.	244	1	20/60
Employer & employee representative Year 2	1 Year Later for Health Hazard Evaluation Followback Survey with site visit.	244	1	15/60
Follow-back for evaluations without onsite—employer & employee representative Year 1.	Closeout for Health Hazard Evaluation without site visit.	98	1	10/60
Employer & employee representative Year 2	1 Year Later for Health Hazard Evaluation without site visit.	98	1	15/60

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2017–19744 Filed 9–15–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee to the Director (ACD), Centers for Disease Control and Prevention (CDC)—Health Disparities Subcommittee (HDS)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the Centers for Disease Control and Prevention (CDC) announces the following meeting of the Advisory Committee to the Director, Centers for Disease Control and Prevention—Health Disparities Subcommittee (ACD, CDC–HDS). This meeting is open to the public, limited only by the room that accommodates 45 people and audio phone line that accommodates 50 callers. The public is also welcome to listen to the meeting by dialing 866–918–8397 and enter code 9346283, this conference line is available to the first 50 callers. The public comment period is from 9:45 a.m. to 9:50 a.m. and 3:45 p.m. to 3:55 p.m. The deadline to register for in-person attendance and/or notice of intent to make oral or written comment is October 30, 2017. To register, please send an email to *ACDirector@cdc.gov.*

DATES: The meeting will be held on November 9, 2017, 8:30 a.m. to 4:00 p.m. ET.

ADDRESSES: CDC, Building 21, 12th Floor, Rooms 12105–12101, 1600 Clifton Road NE., Atlanta, Georgia 30329.

Bridge line: 866–918–8397 and enter code 9346283.

FOR FURTHER INFORMATION CONTACT: Leandris Liburd, Ph.D., M.P.H., M.A., Designated Federal Officer, Health Disparities Subcommittee, Advisory Committee to the Director, CDC, 1600 Clifton Road NE., M/S K–77, Atlanta, Georgia 30329. Telephone (404) 498–6482, Email: *ACDirector@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Purpose: The Subcommittee will provide counsel to ACD, CDC on strategic and other health disparities and health equity issues and provide guidance on opportunities for CDC.

Matters to be Considered: The Health Disparities Subcommittee Agenda will include discussions on addressing health disparities in achieving the agency's overarching health impact goals including selected observations from the HDS for the ACD, CDC to consider, and on progress of the HDS, and on progress toward activities related to data disaggregation and childhood trauma. Agenda items are subject to change as priorities dictate.

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.

Claudette Grant,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2017–19779 Filed 9–15–17; 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 (HICPAC)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the Centers for Disease Control and Prevention (CDC), National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), announces the following meeting for the Healthcare Infection Control Practices Advisory Committee (HICPAC). This meeting is

open to the public, limited only by room seating available. The public is also welcome to listen to the meeting by 866–836–4010, passcode: 18307719, and, and 100 teleconference lines are available.

DATES: The meeting will be held on November 8, 2017, 9:00 a.m. to 5:00 p.m., EST and November 9, 2017, 9:00 a.m. to 12:00 p.m., EST.

ADDRESSES: Centers for Disease Control and Prevention, Global Communications Center, Building 19, Auditorium B, 1600 Clifton Road NE., Atlanta, Georgia 30329.

FOR FURTHER INFORMATION CONTACT: Erin Stone, M.A., HICPAC, Division of Healthcare Quality Promotion, NCEZID, CDC, l600 Clifton Road NE., Mailstop A–07, Atlanta, Georgia 30329, Telephone (404) 639–4045, Email: *hicpac@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Purpose: The Committee is charged with providing advice and guidance to the Director, Division of Healthcare Quality Promotion (DHQP), the Director, National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), the Director, CDC, the Secretary, Health and Human Services regarding (1) the practice of healthcare infection prevention and control; (2) strategies for surveillance, prevention, and control of infections, antimicrobial resistance, and related events in settings where healthcare is provided; and (3) periodic updating of CDC guidelines and other policy statements regarding prevention of healthcare-associated infections and healthcare-related conditions.

Matters to be Considered: The agenda will include updates on CDC's activities for prevention of healthcare associated infections (HAIs), and DHQP's modeling efforts. It will also include updates from the following HICPAC workgroups: The Guideline for Prevention of Infection in Neonatal Intensive Care Unit (NICU) Patients; the Guideline for Prevention of Infection in Healthcare Personnel; the workgroup on updating the CDC recommendation categorization scheme; the workgroup on developing CDC recommendations for products and practices; and the National Healthcare Safety Network (NHSN) Surveillance Workgroup.

Agenda items are subject to change as priorities dictate.

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 is October 25, 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. Members of the public who wish to provide public comments should plan to attend the public comment session at the start time listed. Please note that the public comment period may end before the time indicated, following the last call for comments. Written comments received in advance of the meeting will be included in the official record of the meeting. Registration is required to attend in person or on the phone. Interested parties may register at *www.cdc.gov/hicpac.*

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.

Claudette Grant,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2017–19778 Filed 9–15–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10292 and CMS–R–148]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected; and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by October 18, 2017.

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–5806 *OR* Email: *OIRA_submission@omb.eop.gov.*

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at Web site address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is

publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* State Medicaid HIT Plan, Planning Advance Planning Document, and Implementation Advance Planning Document for Section 4201 of the Recovery Act; *Use:* To assess the appropriateness of state requests for the administrative Federal financial participation for expenditures under their Medicaid Electronic Health Record Incentive Program related to health information exchange, our staff will review the submitted information and documentation to make an approval determination of the state advance planning document. *Form Number:* CMS–10292 (OMB control number: 0938–1088); *Frequency:* Once and occasionally; *Affected Public:* State, Local, and Tribal Governments; *Number of Respondents:* 56; *Total Annual Responses:* 56; *Total Annual Hours:* 896. (For policy questions regarding this collection contact Marty Rice at 410–786–2417.)

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Limitations on Provider Related Donations and Health Care Related Taxes; Limitation on Payment to Disproportionate Share Hospitals; Medicaid and Supporting Regulations in 42 CFR 433.68, 433.74 and 447.272; *Use:* States may request a waiver of the broad based and uniformity tax program requirements. Each state must demonstrate that its tax program(s) do not violate the hold harmless provision. Additionally, state Medicaid agencies must report (quarterly) on health care related taxes collected and the source of provider related donations received by the state or unit of local government. Each state must maintain, in readily reviewable form, supporting documentation that provides a detailed description of each donation and tax program being reported, as well as the source and use of all donations received and collected. Without this information, the amount of Federal financial participation payable to a state cannot be determined; *Form Number:* CMS–R–148 (OMB control number: 0938–0618); *Frequency:* Quarterly and occasionally; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 50; *Total Annual Responses:* 40; *Total Annual Hours:* 3,200. (For policy questions regarding this collection contact Stuart Goldstein at 410–786–0694.)

Dated: September 13, 2017.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2017–19787 Filed 9–15–17; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–437 and CMS–10515]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by November 17, 2017.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–437 Psychiatric Unit Criteria Work Sheet

CMS–10515 Payment Collections Operations Contingency Plan

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Reinstatement with Change of a currently approved collection; *Title of Information Collection:* Psychiatric Unit Criteria Work Sheet; *Use:* Certain

specialty hospitals and hospital specialty distinct-part units may be excluded from the Inpatient Medicare Prospective Payment System (IPPS) and be paid at a different rate. These specialty hospitals and distinct-part units of hospitals include Inpatient Rehabilitation Facilities (IRFs) units, Inpatient Rehabilitation Facilities (IRFs) hospitals and Inpatient Psychiatric Facilities (IPFs).

CMS regulations at 42 CFR 412.20 through 412.29 describe the criteria under which these specialty hospitals and specialty distinct-part hospital units are excluded from the IPPS. Form CMS–437 is used by Inpatient Psychiatric Facilities (IPFs) to attest to meeting the necessary requirements that make them exempt for receiving payment from Medicare under the IPPS. These IPFs must use CMS–437 to attest that they meet the requirements for IPPS exempt status prior to being placed into excluded status. IPFs must re-attest to meeting the exclusion criteria annually. *Form Number:* CMS–437 (OMB control number: 0938–0358); *Frequency:* Annually; *Affected Public:* Private sector—Business or other for-profits; *Number of Respondents:* 1,616; *Total Annual Responses:* 1,616; *Total Annual Hours:* 1,212. (For policy questions regarding this collection contact Caroline Gallaher at 410–786–8705.)

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Payment Collections Operations Contingency Plan; *Use:* Section 1402 of the PPACA provides for the reduction of cost sharing for certain individuals enrolled in a QHP through an Exchange, and section 1412 of the PPACA provides for the advance payment of these reductions to issuers. The data collection will be used by HHS to make payments or collect charges from SBE issuers under the following programs: advance payments of the premium tax credit, advanced cost-sharing reductions, and Exchange user fees. The workbook template was used to make payments in January 2014 and will continue through December 2020, as may be required based on HHS's operational progress. *Form Number:* CMS–10515 (OMB Control Number: 0938–1217); *Frequency:* Monthly; *Affected Public:* Private sector (Business or other for-profits and not-for-profit institutions); *Number of Respondents:* 575; *Total Annual Responses:* 7,475; *Total Annual Hours:* 51,175. (For policy questions regarding this collection contact Jaya Ghildiyal at 301–492–5149).

Dated: September 13, 2017.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2017–19795 Filed 9–15–17; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Vascular and Hematology Integrated Review Group; Hypertension and Microcirculation Study Section.

Date: October 10–11, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Ai-Ping Zou, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7814, Bethesda, MD 20892, 301–408–9497, *zouai@mail.nih.gov*.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Clinical Neuroscience and Neurodegeneration Study Section.

Date: October 10–11, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Alessandra C. Rovescalli, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Rm 5205 MSC7846, Bethesda, MD 20892, (301) 435–1021, *rovescaa@mail.nih.gov*.

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Lung Injury, Repair, and Remodeling Study Section.

Date: October 10–11, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Ghenima Dirami, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4122, MSC 7814, Bethesda, MD 20892, 240–498–7546, *diramig@csr.nih.gov*.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Infectious Diseases, Reproductive Health, Asthma and Pulmonary Conditions, Study Section.

Date: October 10–11, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, Montgomery County Conference Center Facility, 5701 Marinelli Road, North Bethesda, MD 20852.

Contact Person: Lisa Steele, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, (301) 257–2638, *steeleln@csr.nih.gov*.

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Macromolecular Structure and Function D Study Section.

Date: October 11, 2017.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: James W. Mack, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4154, MSC 7806, Bethesda, MD 20892, (301) 435–2037, *mackj2@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cellular and Molecular Technologies.

Date: October 11–12, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Tatiana V. Cohen, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 5213, Bethesda, MD 20892, 301–455–2364, *tatiana.cohen@nih.gov*.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Vector Biology Study Section.

Date: October 11, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Cambria Suites Rockville, 1 Helen Henegham Way, Rockville, MD 20850.

Contact Person: Liangbiao Zheng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3214,

MSC 7808, Bethesda, MD 20892, 301–402–5671, *zhengli@csr.nih.gov*.

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Genomics, Computational Biology and Technology Study Section.

Date: October 11–12, 2017.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Baishali Maskeri, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–827–2864, *maskerib@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; SBIB Clinical Pediatric and Fetal Applications Subcommittee.

Date: October 11, 2017.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Songtao Liu, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, Bethesda, MD 20817, 301–435–3578, *songtao.liu@nih.gov*.

Name of Committee: Cell Biology Integrated Review Group; Molecular and Integrative Signal Transduction Study Section.

Date: October 11, 2017.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Charles Selden, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 5187 MSC 7840, Bethesda, MD 20892, 301–451–3388, *seldens@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Societal and Ethical Issues in Research.

Date: October 11, 2017.

Time: 11:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Karin F. Helmers, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3148, MSC 7770, Bethesda, MD 20892, (301) 254–9975, *helmersk@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 12, 2017.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–19728 Filed 9–15–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the NHLBI Special Emphasis Panel.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Sex Hormone Induced Thromboembolism in Pre-Menopausal Women.

Date: October 11, 2017.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Kristen Page, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7185, Bethesda, MD 20892, 301–827–7953, *kristen.page@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 12, 2017.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–19729 Filed 9–15–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; DDK–C Conflicts.

Date: October 13, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Jian Yang, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7111, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7799, *yangj@extra.niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; PAR–16–034: Ancillary Studies in Kidney Disease (R01).

Date: October 25, 2017.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ann A. Jerkins, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7119, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, 301–594–2242, *jerkinsa@niddk.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: September 12, 2017.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–19731 Filed 9–15–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group; Kidney, Urologic and Hematologic Diseases D Subcommittee.

Date: October 17–19, 2017.

Time: 4:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Barbara A. Woynarowska, Ph.D., Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7007, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 402–7172, *woynarowskab@niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group; Digestive Diseases and Nutrition C Subcommittee.

Date: October 18–20, 2017.

Time: 5:45 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Maria E. Davila-Bloom, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7017, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7637, *davila-bloomm@extra.niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group; Diabetes, Endocrinology and Metabolic Diseases B Subcommittee.

Date: October 25–27, 2017.

Time: 5:30 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Capital View, 2850 South Potomac Avenue, Arlington, VA 22202.

Contact Person: John F. Connaughton, Ph.D., Chief, Scientific Review Branch, Review Branch, DEA, NIDDK, National Institutes Of Health, Room 7007, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7797, *connaughtonj@extra.niddk.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: September 12, 2017.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–19730 Filed 9–15–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2010–0164]

National Boating Safety Advisory Council

AGENCY: U.S. Coast Guard, Department of Homeland Security.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The National Boating Safety Advisory Council and its Subcommittees will meet to discuss issues relating to recreational boating safety. These meetings will be open to the public.

DATES: The National Boating Safety Advisory Council will meet on Tuesday, October 10, 2017, from 8 a.m. to 11:30 a.m. and Thursday, October 12, 2017 from 9 a.m. to 12:00 p.m. The Boats and Associated Equipment Subcommittee will meet on Tuesday, October 10, 2017, from 1 p.m. to 2:30 p.m. The Prevention through People Subcommittee will meet on Tuesday, October 10, 2017, from 2:45 p.m. to 5 p.m. The Recreational Boating Safety Strategic Planning Subcommittee will meet on Wednesday, October 11, 2017, from 8:30 a.m. to 10 a.m. The Regulatory Reform Review Subcommittee will meet on Wednesday, October 11, 2017 from 10:15 a.m. to 11:30 a.m. and 1 p.m. to 5 p.m. Please note that these meetings may conclude early if the National Boating Safety Advisory Council has completed all business.

ADDRESSES: All meetings will be held in the Ballroom of the Holiday Inn Arlington (*http://www.hiarlington.com*), 4610 N. Fairfax Drive, Arlington, VA 22203.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section below as soon as possible.

Instructions: You are free to submit comments at any time, including orally at the meetings, but if you want Council members to review your comment before the meetings, please submit your comments no later than October 2, 2017. We are particularly interested in the comments in the ''Agenda'' section below. You must include ''Department of Homeland Security'' and the docket number USCG–2010–0164. Written comments may also be submitted using the Federal eRulemaking Portal at *http://www.regulations.gov.* If you encounter technical difficulties with comments submission, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section below. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. You may review the Privacy and Security Notice for *Regulations.gov* at *https://www.regulations.gov/privacyNotice.*

Docket Search: For access to the docket to read documents or comments related to this notice, go to *http://www.regulations.gov* insert USCG–2010–0164 in the ''Search'' box, press Enter, then click the item you wish to view.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Ludwig, Alternate Designated Federal Officer of the National Boating Safety Advisory Council, telephone (202) 372–1061, or at *jeffrey.a.ludwig@uscg.mil.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the *Federal Advisory Committee Act* (Title 5, U.S.C, Appendix). Congress established the National Boating Safety Advisory Council in the *Federal Boat Safety Act of 1971* (Pub. L. 92–75). The National Boating Safety Advisory Council currently operates under the authority of 46 U.S.C. 13110 and 46 U.S.C. 4302(c). The latter requires the Secretary of Homeland Security and the Commandant of the U.S. Coast Guard by delegation to consult with the National Boating Safety Advisory Council in prescribing regulations for recreational

vessels and associated equipment and on other major safety matters.

Agenda

Day 1

The agenda for the National Boating Safety Advisory Council meeting is as follows:

Tuesday, October 10, 2017

(1) Opening remarks.
(2) Receipt and discussion of the following reports:
(a) Chief, Office of Auxiliary and Boating Safety, Update on the U.S. Coast Guard's implementation of National Boating Safety Advisory Council Resolutions and Recreational Boating Safety Program report.
(b) Alternate Designated Federal Officer's report concerning Council administrative and logistical matters.
(3) Presentation on the U.S. Coast Guard Rulemaking Process
(4) Subcommittee Session(s):

Boats and Associated Equipment Subcommittee

Issues to be discussed include alternatives to pyrotechnic visual distress signals; grant projects related to boats and associated equipment; and updates to 33 CFR 181 ''Manufacturer Requirements'' and 33 CFR 183 ''Boats and Associated Equipment.''

Prevention Through People Subcommittee

Issues to be discussed include paddlesports participation, overview of State boating Safety programs, and licensing requirements for on-water boating safety instruction providers.
(5) Public comment period.
(6) Meeting Recess.

Day 2

Wednesday, October 11, 2017

The day will be dedicated to Subcommittee sessions:
(1) *Recreational Boating Safety Strategic Planning Subcommittee.*
Issues to be discussed include progress on implementation of the 2017–2021 Strategic Plan.
(2) *Regulatory Reform Review Subcommittee.*
Issues to be discussed include the subcommittee's progress on reviewing recreational boating safety regulations found in 33 CFR Subchapter S.

Day 3

Thursday, October 12, 2017

The full Council will resume meeting:
(1) Receipt and Discussion of the Boats and Associated Equipment, Prevention through People, Recreational Boating Safety Strategic Planning, and Regulatory Reform Review Subcommittee reports.
(2) Discussion of any recommendations to be made to the U.S. Coast Guard.
(3) Public comment period.
(4) Voting on any recommendations to be made to the U.S. Coast Guard.
(5) Adjournment of meeting.
There will be a comment period for the National Boating Safety Advisory Council members and a comment period for the public after each report presentation, but before each is voted on by the Council. The Council members will review the information presented on each issue, deliberate on any recommendations presented in the Subcommittees' reports, and formulate recommendations for the Department's consideration.
The meeting agenda and all meeting documentation can be found at: *http://homeport.uscg.mil/NBSAC.* Alternatively, you may contact Mr. Jeff Ludwig as noted in the **FOR FURTHER INFORMATION CONTACT** section above.
Public comments or questions will be taken throughout the meeting as the Council discusses the issues and prior to deliberations and voting. There will also be a public comment period at the end of the meeting. Speakers are requested to limit their comments to 3 minutes. Please note that the public comment period may end before the period allotted, following the call for comments. Contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section above to register as a speaker.

Jennifer F. Williams,

Captain, U.S. Coast Guard, Director of Inspections and Compliance.

[FR Doc. 2017–19738 Filed 9–15–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2017–0013; OMB No. 1660–0072]

Agency Information Collection Activities: Proposed Collection; Comment Request; Mitigation Grant Programs/e-Grants

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, 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 a reinstatement, without change, of a previously approved information collection for which approval has expired. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the collection of information necessary to implement grants for the Flood Mitigation Assistance (FMA) program and the Pre-Disaster Mitigation (PDM) program.

DATES: Comments must be submitted on or before October 18, 2017.

ADDRESSES: Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Records Management Division, 500 C Street SW., Washington, DC 20472, email address *FEMA-Information-Collections-Management@fema.dhs.gov* or Jennie Orenstein, Branch Chief, HMA Division—Grants Policy, (202) 212–4071.

SUPPLEMENTARY INFORMATION: The FMA program is authorized by Section 1366 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4104c. The FMA program, under 44 CFR part 79, provides funding for measures taken to reduce or eliminate the long-term risk of flood damage to buildings, manufactured homes, and other structures insured under the National Flood Insurance Program. The Biggert-Waters Flood Insurance Reform Act of 2012 (Pub. L. 112–141) eliminated the Repetitive Flood Claims (RFC) and Severe Repetitive Loss (SRL) programs, and made significant changes to the FMA program by consolidating the former RFC and SRL programs into FMA. Cost-share requirements were changed to allow more Federal funds for properties with repetitive flood claims.

The PDM program is authorized by Section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5133, as amended by Section 102 of the Disaster Mitigation Act of 2000, Public Law 106–390, 114 Stat. 1553. It provides grants

for cost-effective mitigation actions prior to a disaster event to reduce overall risks to the population and structures, while also reducing reliance on funding from actual disaster declarations.

In accordance with OMB Circular A–102, FEMA requires that all parties interested in receiving FEMA mitigation grants submit an application package for grant assistance. Applications and sub-applications for the PDM and FMA programs are submitted via the e-Grants system. The e-Grants system was developed and updated to meet the intent of the e-Government initiative, authorized by Public Law 106–107. This initiative required that all government agencies both streamline grant application processes and provide for the means to electronically create, review, and submit a grant application via the Internet. Title 2 CFR 200.335, promulgated in 2013, encourages Federal awarding agencies and non-Federal entities to, whenever practicable, collect, transmit, and store Federal award-related information in open and machine readable formats rather than in closed formats or on paper.

This proposed information collection previously published in the **Federal Register** on May 9, 2017 at 82 FR 21548 with a 60-day public comment period. No public comments were received. This information collection expired on June 30, 2017. FEMA is requesting a reinstatement, without change, of a previously approved information collection for which approval has expired. Although FEMA initially proposed to revise this information collection by adding a new Quarterly Progress Report form, a new form is not necessary. The e-Grants system already collects information on the status of funded FMA/PDM mitigation activities on a quarterly basis after award. The information that is collected is limited to project status, work completed, number of properties acquired or relocated, and addresses of properties acquired or relocated during a given quarter. Therefore, FEMA is requesting a reinstatement of the collection without change. The purpose of this notice is to notify the public that FEMA will submit the information collection abstracted below to the Office of Management and Budget for review and clearance.

Collection of Information

Title: Mitigation Grant Programs/e-Grants.

Type of Information Collection: Reinstatement, without change, of a previously approved information collection for which approval has expired.

OMB Number: 1660–0072.

FEMA Forms: None.

Abstract: FEMA's Flood Mitigation Assistance and Pre-Disaster Mitigation programs utilize an automated grant application and management system called e-Grants. These grant programs provide funding for the purpose of reducing or eliminating the risks to life and property from hazards. The e-Grants system includes all of the application information needed to apply for funding under these grant programs.

Affected Public: State, Local and Tribal Government.

Estimated Number of Respondents: 56.

Estimated Number of Responses: 4,312.

Estimated Total Annual Burden Hours: 18,788.

Estimated Total Annual Respondent Cost: $927,939.

Estimated Respondents' Operation and Maintenance Costs: None.

Estimated Respondents' Capital and Start-Up Costs: None.

Estimated Total Annual Cost to the Federal Government: $6,598,456.16.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Dated: September 11, 2017.

Tammi Hines,

Acting Records Management Program Chief, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2017–19790 Filed 9–15–17; 8:45 am]

BILLING CODE 9111–52–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2017–0024; OMB No. 1660–0137]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Emergency Notification System (ENS)

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission will describe the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before October 18, 2017.

ADDRESSES: Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *dhsdeskofficer@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Records Management Division, 500 C Street SW., Washington, DC 20472–3100, or email address *FEMA-Information-Collections-Management@fema.dhs.gov.* Or, Melton Roland, ENS Program Manager, FEMA/ORR, *Melton.Roland@fema.dhs.gov,* or telephone at 540–665–6152.

SUPPLEMENTARY INFORMATION: This proposed information collection previously published in the **Federal Register** on June 20, 2017 at 82 FR 28083 with a 60 day public comment period. No comments were received. The purpose of this notice is to notify the public that FEMA will submit the information collection abstracted below to the Office of Management and Budget for review and clearance.

Collection of Information

Title: Emergency Notification System (ENS).

Type of information collection: Extension, without change, of a currently approved information collection.

OMB Number: 1660–0137.

Form Titles and Numbers: None.

Abstract: The ENS contains contact information for FEMA emergency team members, and for certain DHS HQ teams as well as USCIS and FLETC teams. The ENS uses this information to send email, call cell, home, work phones and SMS devices to inform team members they have been activated. Teams include FEMA HQ COOP, Hurricane Liaison Team (HLT), Urban Search & Rescue (US&R), Emergency Response Group (ERG), etc. The system can only be accessed via DHS OneNet.

Affected Public: State, Local or Tribal Government; Federal Government.

Estimated Number of Respondents: 700.

Estimated Total Annual Burden Hours: 500 hours.

Estimated Cost: The estimated annual cost to respondents for the hour burden is $14,410. There are no annual costs to respondents operations and maintenance costs for technical services. There are no annual start-up or capital costs. The cost to the Federal Government is $173,350.96.

Dated: September 13, 2017.

Tammi Hines,

Acting Records Management Program Chief, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2017–19792 Filed 9–15–17; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

[Docket ID DHS–2017–0045]

Meeting of The President's National Security Telecommunications Advisory Committee

AGENCY: Department of Homeland Security.

ACTION: Committee management; Notice of Federal Advisory Committee meeting.

SUMMARY: The President's National Security Telecommunications Advisory Committee (NSTAC) will meet on Wednesday, October 11, 2017, in Washington, DC. The meeting will be partially closed to the public.

DATES: The NSTAC will meet on Wednesday, October 11, 2017, from 10:00 a.m. to 3:30 p.m. Eastern Daylight Time (EDT). Please note that the meeting may close early if the committee has completed its business.

ADDRESSES: The October 2017 NSTAC Meeting's open session will be held at the Department of Homeland Security Immigration and Customs Enforcement Facility, 500 12th Street SW., Washington, DC, and will begin at 1:00 p.m. For information on facilities or services for individuals with disabilities, or to request special assistance at the meeting, or to attend in person, contact *NSTAC@hq.dhs.gov* no later than Wednesday, October 4, 2017.

Members of the public are invited to provide comment on the issues that will be considered by the committee as listed in the **SUPPLEMENTARY INFORMATION** section below. Associated briefing materials that participants may discuss during the meeting will be available at *www.dhs.gov/nstac* for review as of Monday, October 2, 2017. Comments may be submitted at any time and must be identified by docket number DHS–2017–0045. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Please follow the instructions for submitting written comments.
- *Email: NSTAC@hq.dhs.gov.* Include the docket number DHS–2017–0045 in the subject line of the email.
- *Fax:* (703) 705–6190, ATTN: Sandy Benevides.
- *Mail:* Designated Federal Officer, Stakeholder Engagement and Critical Infrastructure Resilience Division, National Protection and Programs Directorate, Department of Homeland Security, 245 Murray Lane, Mail Stop 0612, Arlington, VA 20598–0612.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *www.regulations.gov,* including any personal information provided.

Docket: For access to the docket and comments received by the NSTAC, please go to *www.regulations.gov* and enter docket number DHS–2017–0045.

A public comment period will be held during the meeting on Wednesday, October 11, 2017, from 2:40 p.m. to 3:00 p.m. EDT. Speakers who wish to participate in the public comment period must register in advance by no later than Friday, October 6, 2017, at 5:00 p.m. EDT by emailing *NSTAC@hq.dhs.gov.* Speakers are requested to limit their comments to three minutes and will speak in order of registration. Please note that the public comment period may end before the time indicated, following the last request for comments.

FOR FURTHER INFORMATION CONTACT: Helen Jackson, NSTAC Designated Federal Officer, Department of Homeland Security, (703) 705–6276 (telephone) or *helen.jackson@hq.dhs.gov* (email).

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under *the Federal Advisory Committee Act,* 5 U.S.C. Appendix (Pub. L. 92–463). The NSTAC advises the President on matters related to National Security and Emergency Preparedness (NS/EP) telecommunications and cybersecurity policy.

Agenda: The committee will meet in an open session on October 11, 2017, receive remarks from Department of Homeland Security (DHS) leadership and other senior Government officials regarding the Government's current cybersecurity initiatives and NS/EP priorities. The meeting will include a keynote address and a panel discussion on a cybersecurity moonshot, which looks at identifying new processes to address cybersecurity challenges. NSTAC members will also deliberate and vote on the Committee's *NSTAC Report to the President on Internet and Communications Resilience* which addresses ways in which the private sector and Government, together, can improve the resilience of the Internet and communications ecosystem (*e.g.,* botnets).

The committee will also meet in a closed session to receive a classified briefing regarding cybersecurity threats and discuss future studies based on the Government's NS/EP priorities and perceived vulnerabilities.

Basis for Closure: In accordance with 5 U.S.C. 552b(c), *The Government in the Sunshine Act,* it has been determined that two agenda items require closure, as the disclosure of the information discussed would not be in the public interest. The first of these agenda items, the classified briefing, will provide members with a cybersecurity threat briefing on vulnerabilities related to the communications infrastructure. Disclosure of these threats would provide criminals who seek to compromise commercial and Government networks with information on potential vulnerabilities and mitigation techniques, weakening the Nation's cybersecurity posture. This briefing will be classified at the top secret level, thereby exempting disclosure of the content by statute. Therefore, this portion of the meeting is

required to be closed pursuant to 5 U.S.C. 552b(c)(1)(A) & (B) The second agenda item, a discussion of potential NSTAC study topics, will address areas of critical cybersecurity vulnerabilities and priorities for Government. Government officials will share data with NSTAC members on initiatives, assessments, and future security requirements across public and private sector networks. The information will include specific vulnerabilities within cyberspace that affect the United States' information and communication technology infrastructures and proposed mitigation strategies. Disclosure of this information to the public would provide criminals with an incentive to focus on these vulnerabilities to increase attacks on the Nation's critical infrastructure and communications networks. As disclosure of this portion of the meeting is likely to significantly frustrate implementation of proposed DHS actions, it is required to be closed pursuant to 5 U.S.C. 552b(c)(9)(B).

Helen Jackson,

Designated Federal Officer for the NSTAC.

[FR Doc. 2017–19793 Filed 9–15–17; 8:45 am]

BILLING CODE 9110–9P–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Notice of Availability for Memorandum on Rescission of Deferred Action for Childhood Arrivals

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

ACTION: Notice of availability.

SUMMARY: In a memorandum dated September 5, 2017, the Acting Secretary of the Department of Homeland Security (DHS) rescinded the June 15, 2012 DHS memorandum entitled ''Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children.'' The September 5, 2017 memorandum is available on the DHS Web site at the following location: *https://www.dhs.gov/news/2017/09/05/memorandum-rescission-daca.*

SUPPLEMENTARY INFORMATION: On June 15, 2012, then Secretary of Homeland Security Janet Napolitano issued a memorandum entitled ''Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children.'' The 2012 memorandum established the policy known as Deferred Action for Childhood Arrivals (DACA).

On September 5, 2017, Acting Secretary of Homeland Security Elaine Duke issued a memorandum entitled ''Rescission of the June 15, 2012 Memorandum Entitled 'Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children.' '' The September 5, 2017 memorandum rescinded the June 15, 2012 memorandum and directed DHS personnel to take all appropriate actions to execute a wind-down of the DACA program consistent with the parameters established in the memorandum. The September 5, 2017 memorandum is available on the DHS Web site at the following location: *https://www.dhs.gov/news/2017/09/05/memorandum-rescission-daca.*

Dated: September 11, 2017.

Elaine C. Duke,

Acting Secretary of Homeland Security.

[FR Doc. 2017–19794 Filed 9–15–17; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2017–0038]

Privacy Act of 1974; System of Records

AGENCY: Department of Homeland Security, Privacy Office.

ACTION: Notice of Modified Privacy Act System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security (DHS) proposes to modify a current DHS system of records titled, ''Department of Homeland Security/U.S. Citizenship and Immigration Services, U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection—001 Alien File, Index, and National File Tracking System of Records.'' This system of records contains information regarding transactions involving an individual as he or she passes through the U.S. immigration process, some of which may also be covered by separate Systems of Records Notices. DHS primarily maintains information relating to the adjudication of benefits, investigation of immigration violations, and enforcement actions in Alien Files (A-Files). Alien Files became the official file for all immigration records created or consolidated since April 1, 1944. Before A-Files, many individuals had more than one file with the agency. To streamline immigration recordkeeping, legacy Immigration and Naturalization Service issued each individual an Alien Number, allowing the agency to create a single file for each individual containing that individual's official immigration record. DHS also uses other immigration files to support administrative, fiscal, and legal needs.

DATES: Submit comments on or before October 18, 2017. This modified system will be effective upon publication. New or modified routine uses will become effective October 18, 2017.

ADDRESSES: You may submit comments, identified by docket number DHS–2017–0038 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–343–4010.
- *Mail:* Jonathan R. Cantor, Acting Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528–0655.

FOR FURTHER INFORMATION CONTACT: For general questions, please contact: Donald K. Hawkins, (202) 272–8000, Privacy Officer, U.S. Citizenship and Immigration Services, 20 Massachusetts Avenue NW., Washington, DC 20529. For privacy questions, please contact: Jonathan R. Cantor, (202) 343–1717, Acting Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528–0655.

SUPPLEMENTARY INFORMATION: As DHS moves to conducting more immigration actions in an electronic environment and U.S. Citizenship and Immigration Services (USCIS) adjudicates more immigration benefits and requests for action in its USCIS Electronic Immigration System, DHS no longer considers the paper A-File as the sole repository and official record of information related to an individual's official immigration record. An individual's immigration history may be in the following materials and formats: (1) A paper A-File; (2) an electronic record in the Enterprise Document Management System or USCIS Electronic Immigration System; or (3) a combination of paper and electronic records and supporting documentation.

The Department of Homeland Security, therefore, is updating the ''Department of Homeland Security/U.S. Citizenship and Immigration Services, U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection–001 Alien File, Index, and National File Tracking System of Records notice to: (1) Redefine which records constitute the official record of an individual's immigration history to include the following materials and formats: (a) The paper A-File, (b) an electronic record in the Enterprise Document Management System or U.S. Citizenship and Immigration Services Electronic Immigration System, or (c) a

combination of paper and electronic records and supporting documentation; (2) clarify that data originating from this system of records may be stored in a classified paper A-File or classified electronic network; (3) provide updated system locations; (4) update category of individuals covered by this System of Records Notice, to include individuals acting as legal guardians or designated representatives in immigration proceedings involving an individual who is physically or developmentally disabled or severely mentally impaired (when authorized); Civil Surgeons who conduct and certify medical examinations for immigration benefits; law enforcement officers who certify a benefit requestors cooperation in the investigation or prosecution of a criminal activity; and interpreters; (5) expand the categories of records to include the following: country of nationality; country of residence; the USCIS Online Account Number; social media handles, aliases, associated identifiable information, and search results; and the Department of Justice (DOJ), Executive Office for Immigration Review and Board of Immigration Appeals proceedings information; (6) add and describe the purpose for the USCIS Electronic Immigration System, Electronic Document Management System, and Microfilm Digitization Application System; (7) expand the data elements used to retrieve records; (8) update the parameters for retention and disposal of A–Files; (9) add the Microfilm Digitization Application System retention schedule; (10) update system manager to Associate Director, Immigration Records and Identity Services; (11) update record source categories to include publicly available information obtained from the internet, public records, public institutions, interviewees, commercial data providers, and information obtained and disclosed pursuant to information sharing agreements; and (12) update routine use E to comply with new policy contained in Office of Management and Budget Circular A–108. Additionally, this notice includes non-substantive changes to simplify the formatting and text of the previously published notice. The exemptions for the existing system of records notice will continue to be applicable for this updated system of records notice. This modified system of records notice will be included in the DHS's inventory of record systems.

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the DHS U.S. Citizenship and Immigration Services (USCIS), U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP) proposes to update and reissue a current DHS system of records titled, ''DHS/USCIS–ICE–CBP–001 Alien File, Index, and National File Tracking System of Records.''

DHS implements U.S. immigration law and policy through USCIS' processing and adjudication of applications and petitions submitted for citizenship, asylum, and other immigration benefits. USCIS also supports national security by preventing individuals from fraudulently obtaining immigration benefits and by denying applications from individuals who pose national security or public safety threats. DHS implements U.S. immigration policy and law through ICE's law enforcement activities and CBP's inspection and border security processes.

Legacy immigration and naturalization agencies previously collected and maintained information concerning all immigration and inspection interactions. Before Alien Files (A-Files), many individuals had more than one file with the agency requiring legacy personnel to search multiple records systems and indexes for all records pertaining to one individual. The former Immigration and Naturalization Services (INS) introduced A-Files and issued each individual an Alien Number (A-Number) allowing INS to create one file for each individual containing the entire agency's records for the subject. Legacy immigration case file records that were not consolidated into the A-File are still maintained since these records hold historical value and are shared with government agencies and members of the public who request this information for mission-related and genealogy purposes.

The Alien File, Index, and National File Tracking System of Records is the official record system that contains information regarding the transactions of an individual as he or she passes through the U.S. immigration process. Currently, A-Files may be maintained in two formats: Paper A-Files or electronic A-Files within the Enterprise Document Management System (EDMS). The official record will now take three possible forms: (1) Records contained within the paper A-File; (2) records contained within the electronic record from EDMS or USCIS Electronic Immigration System (USCIS ELIS); or (3) a combination of paper and electronic records and supporting documentation. The A-File serves as the official record of an individual's immigration history. It is used in immigration proceedings before U.S. Department of Justice (DOJ) immigration judges and the Board of Immigration Appeals (BIA), and is the official record used in Federal court litigation and other official agency business transactions. USCIS is the custodian of the A-File and the documents contained within it that are derived from various systems belonging to USCIS, ICE, and CBP. All three components create, contribute information to, and use A-Files, hence this joint System of Records Notice (SORN).

A notice detailing this system of records was last published in the **Federal Register** on November 21, 2013, as the DHS/USCIS/ICE/CBP001 Alien File, Index, and National File Tracking System of Records, 78 FR 69864. DHS is updating the DHS/USCIS/ICE/CBP–001 Alien File, Index, and National File Tracking System of Records to include the following substantive changes: (1) Redefine which records constitute the official record of an individual's immigration history to include the following materials and formats: (a) The paper A-File, (b) the electronic A-File, or (c) a combination of paper and electronic records and supporting documentation; (2) clarify that data originating from this system of records may be stored in a classified paper A-File or classified electronic network; (3) provide updated system locations; (4) update category of individuals covered by this SORN to include individual acting as legal guardians or designated representatives in immigration proceedings involving individuals who are physically or developmentally disabled or severely mentally impaired (when authorized); Civil Surgeons who conduct and certify medical examinations for immigration benefits; and law enforcement officers who certify a benefit requestors cooperation in the investigation or prosecution of a criminal activity; and interpreters; (5) expand the categories of records to include country of nationality; country of residence; the USCIS Online Account Number; social media handles, aliases, associated identifiable information, and search results; and information regarding the DOJ Executive Office for Immigration Review (EOIR) and BIA proceedings; (6) add and describe the purpose of the USCIS ELIS, EDMS, and Microfilm Digitization Application System (MiDAS); (7) expand data elements used to retrieve records; (8) update the parameters for retention and disposal of paper A-Files and electronic A-Files; (9) include the MiDAS retention schedule; (10) change system

manager to Associate Director, Immigration Records and Identity Services (IRIS); (11) update record source categories to include publicly available information obtained from the internet, public records, public institutions, interviews, commercial data providers, and information shared obtained through information sharing agreements; and (12) update routine use E to comply with Office of Management and Budget Circular A–108.

Consistent with DHS's information sharing mission, information stored in the DHS/USCIS/ICE/CBP–001 Alien File, Index, and National File Tracking System of Records may be shared with other DHS components that have a need to know the information to carry out their national security, law enforcement, immigration, intelligence, or other homeland security functions. In addition, information contained within the DHS/USCIS/ICE/CBP–001 Alien File, Index, and National File Tracking System of Records may be shared with appropriate Federal, State, local, tribal, territorial, foreign, or international government agencies consistent with the routine uses set forth in this system of records notice. The exemptions for the existing system of records notice will continue to be applicable for this system of records notice. Additionally, this modified system will be included in DHS's inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information practice principles in a statutory framework governing the means by which Federal Government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. Additionally, and similarly, the Judicial Redress Act (JRA) provides a statutory right to covered persons to make requests for access and amendment to covered records, as defined by the JRA, along with judicial review for denials of such requests. In addition, the JRA prohibits disclosures of covered records, except as otherwise permitted by the Privacy Act.

Below is the description of the DHS/USCIS/ICE/CBP–001 Alien File, Index, and National File Tracking System of Records. In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this system of records to the Office of Management and Budget and to Congress.

SYSTEM NAME AND NUMBER:

Department of Homeland Security (DHS) U.S. Citizenship and Immigration Services (USCIS), U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP)–001 Alien File, Index, and National File Tracking System of Records.

SECURITY CLASSIFICATION:

Unclassified, sensitive, for official use only, and classified. The data may be retained in classified paper A-File or on classified networks. The nature and character of the underlying classification of these records will not change unless it is combined with classified information.

SYSTEM LOCATION:

Records are maintained in (1) paper A-Files; (2) electronic A-Files in EDMS and USCIS ELIS; (3) Central Index System (CIS); (4) MiDAS; and (5) National File Tracking System (NFTS). Other applications, as Enterprise Citizenship and Immigrations Services Centralized Operational Repository (eCISCOR) and the Person Centric Query Service (PCQS), may retrieve information from the aforementioned applications.

Paper A-Files: Paper A-Files are primarily located at the National Records Center in Lee's Summit, Missouri and component field offices. Paper A-Files may also be located at Headquarters, Regional, District, and other USCIS File Control Offices (FCO) throughout the United States and foreign countries as detailed on the agency's Web site, *http://www.uscis.gov.* A-Files may also be located at ICE and CBP offices and facilities.

EDMS: EDMS contains electronic A-Files.

USCIS ELIS: USCIS ELIS contains electronic A-Files. USCIS ELIS is an online, electronic account and case management system that stores information submitted or integrated into the system for the processing of specific applications, petitions, or requests. Submissions may originate in an electronic format or be converted to an electronic format from paper and include forms, supporting documentation associated with each submission notices of agency action (*e.g.,* appointment notices, requests for evidence or originals, notices of intent to deny, or withdrawal notice and other final agency decisions) on a specific application, petition, or request, whether filed directly online or received by USCIS in a paper format and subsequently scanned for integration into the USCIS ELIS. USCIS ELIS also stores the USCIS Online Account Number and biographic information about the individual filing a request for an immigration decision or agency action that can be used to retrieve information about other immigration requests that may have been filed by the individual.

CIS: CIS serves as a DHS-wide index of key information for A-Files (whether paper or electronic). CIS contains information on individuals who interact with DHS. The system contains biographic information on those individuals which can be used to retrieve additional information from other systems. However, A-Files are not contained in CIS.

MiDAS: MiDAS contains digitized copies of immigration-related records that were created between 1893 and 1975.

NFTS: NFTS has the location information for all A-File records (whether paper or electronic). NFTS allows DHS to track and log the movement of paper A-Files in a centralized database, and provide timely and accurate access to the immigration case file location. This system facilitates USCIS' ability to efficiently manage and streamline access to immigration files under its control.

The databases maintaining the above information are located within the DHS data center in the Washington, DC metropolitan area as well as throughout the country. Access to these electronic systems is possible at USCIS sites at Headquarters and in the field offices throughout the United States, at appropriate facilities under the jurisdiction of DHS, and other locations at which officers of DHS component agencies may be posted or operate to facilitate DHS's homeland security mission.

SYSTEM MANAGER(S):

Associate Director, Immigration Records and Identity Services, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue NW., Washington, DC 20529.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintaining this system is in Sections 103 and 290 of the Immigration and Nationality Act (INA), as amended (8 U.S.C. 1103 and 1360), and the regulations issued pursuant thereto; and Section 451 of the Homeland Security Act of 2002 (Pub. L. 107–296), codified at 6 U.S.C. 271.

PURPOSE(S) OF THE SYSTEM:

The purpose of this system of records is to facilitate administration of benefits and enforcement of provisions under the INA and related immigration statutes. A-Files (whether paper or electronic), immigration case files, CIS, MiDAS, and NFTS are used primarily by DHS employees for immigration processing and adjudication, protection of national security, and administering and enforcing immigration and nationality laws and related regulations and policy. These records also assist DHS with detecting violations of immigration and nationality laws; supporting the referral of such violations for prosecution or other appropriate enforcement action; supporting law enforcement efforts and inspection processes at the U.S. borders; as well as to carry out DHS enforcement, immigration, intelligence, and or other homeland security functions.

The purpose of the A-File is to document and maintain the official record of an individual's immigration applications, petitions, and requests, as well as enforcement transactions as he or she passes through the U.S. immigration process. The official records in the A-Files consist of paper and electronic records of the individual's transactions through the immigration process including records of immigration benefit requests and requests for agency action filed with USCIS, but does not include all case processing and decisional data.

The purpose of the EDMS is to store the A-File electronically and to share the A-File more efficiently within DHS and with external agencies.

The purpose of USCIS ELIS is to maintain the A-File of certain paper- and electronically-filed benefit request forms with USCIS, in addition its electronic case processing, adjudication, and management functions. The associated information and data for cases maintained in USCIS ELIS for case processing, adjudication, and management functions are covered under other USCIS SORNs.

The purpose of CIS is to maintain a repository of electronic data that summarizes the history of an immigrant or non-immigrant in the adjudication process. In addition, CIS maintains information about individuals of interest to the U.S. Government for investigative purposes. Information contained within CIS is used for immigration benefit determination and for immigration law enforcement operations by USCIS, ICE, and CBP.

The purpose of MiDAS is to maintain a repository of historical immigration case files for use by government agencies for mission-related purposes such as assisting in the determination to grant or deny a government benefit or to conduct law enforcement or other investigations. Furthermore, USCIS makes records of deceased subjects available to members of the public who request them for genealogy and other historical research purposes.

The purpose of NFTS is to account for the specific location of immigration files, and to track the request and transfer of immigration files.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

- Lawful permanent residents;
- Naturalized U.S. citizens;
- Individuals when petitioning for benefits under the INA, as amended, on behalf of another individual;
- Individuals acting as legal guardians or designated representatives in immigration proceedings involving an individual who has a physical or developmental disability or mental impairment (as authorized under the INA);
- Individuals who receive benefits under the INA;
- Individuals who are subject to the enforcement provisions of the INA;
- Individuals who are subject to the INA and:

o Are under investigation by DHS for possible national security threats or threats to the public safety,

o were investigated by DHS in the past,

○ are suspected of violating immigration-related criminal or immigration-related civil provisions of treaties, statutes, regulations, Executive Orders, and Presidential Proclamations administered by DHS, or

○ are witnesses and informants having knowledge of such violations;

- Relatives and associates of any of the individuals listed above who are subject to the INA;
- Individuals who have renounced their U.S. citizenship;
- Civil Surgeons who are required to conduct and certify medical examinations for immigration benefits; and law enforcement officers who certify a benefit requestor's cooperation in the investigation or prosecution of a criminal activity;
- Preparers assisting an individual seeking an immigration benefit or agency action under the INA;
- Interpreters assisting an individual seeking an immigration benefit or agency action under the INA;
- Attorneys or representatives recognized by USCIS or accredited by the BIA; or
- Law enforcement officers who certify a benefit requestor's cooperation in the investigation or prosecution of a criminal activity.

Note: Individuals may fall within one or more of these categories.

CATEGORIES OF RECORDS IN THE SYSTEM:

A. A-Files contain official record material about each individual for whom DHS has created a record under the INA such as: Naturalization certificates; various documents and attachments (*e.g.,* birth and marriage certificates); applications, petitions, and requests for immigration determinations or agency action under the immigration and nationality laws; reports of arrests and investigations; statements; other reports; records of proceedings before or filings made with the U.S. immigration courts and any administrative or federal district court or court of appeal; correspondence; and memoranda. Specific data elements may include:

- A-Numbers;
- Receipt file number(s);
- Full name and any aliases used;
- Physical and mailing addresses (to include U.S. and foreign);
- Phone numbers and email addresses;
- Social Security number (SSN);
- Date of birth;
- Place of birth (city, state, and country);
- Country of citizenship;
- Country of nationality;
- Country of residence;
- Gender;
- Physical characteristics (height, weight, race, eye and hair color, photographs, fingerprints);
- Government-issued identification information (*i.e.,* passport, driver's license):
  - ○ Document type;
  - ○ Issuing organization;
  - ○ Document number; and
  - ○ Expiration date;
- Military membership and/or status;
- Arrival/Departure information (record number, expiration date, class of admission, etc.);
- Federal Bureau of Investigation (FBI) Identification Number/Universal Control Number;
- Fingerprint Identification Number;
- Immigration enforcement history, including, but not limited to, arrests and charges, immigration proceedings and appeals, and dispositions including removals or voluntary departures;
- Immigration status;
- Family history;
- Travel history;
- Education history;
- Employment history;
- Criminal history;
- Professional accreditation information;

- Medical information;
- Information regarding the status of Department of Justice (DOJ), Executive Office of Immigration Review (EOIR) and (BIA) proceedings, if applicable;
- Specific benefit eligibility information as required by the benefit being sought;
- Social media handles and aliases, associated identifiable information, and search results; and
- Cassette/audio tapes, audio-visual/videotapes, CDs, DVDs, or transcripts of immigration interviews.

B. CIS contains information on those individuals who during their interactions with DHS have been assigned an A-Number. The system contains biographic information on those individuals, allowing DHS employees to quickly review the individual's immigration status. The information in the system can then be used to retrieve additional information on the individual from other systems. The information in the system can be used to request the paper A-File from the USCIS FCO that has custody of the A-File. Specific data elements may include:

- A-Number(s);
- Full name and any aliases used;
- SSN;
- Date of birth;
- Place of birth (city, state, and country);
- Country of citizenship;
- Country of nationality;
- Gender;
- Government issued identification information (*i.e.,* passport, driver's license):
- Document type;
- Issuing organization;
- Document number;
- Expiration date;
- Arrival/Departure information (record number, expiration date, class of admission, etc.);
- Immigration status;
- Father and Mother's first name;
- FBI Identification/Identification Universal Control Number;
- Fingerprint Identification Number;
- Immigration enforcement history, including arrests and charges, immigration proceedings and appeals, and dispositions including removals or voluntary departures; and
- NFTS file location and status information.

C. EDMS contains official record material about each individual for whom DHS has created a record pursuant to the INA and the same information as contained in the as a paper A-File except for material that cannot be scanned from the paper A-File (*e.g.,* cassette/audio tapes, audio-visual/video tapes, CDs, or DVDs).

D. USCIS ELIS contains official record information and material used to determine an outcome on an immigration application, petition, or request or request agency action, such as supporting documentation, and notices of agency action on the specific immigration request. USCIS ELIS also stores the USCIS Online Account Number biographic information about the individual seeking an immigration benefit or requesting agency action that can be used to retrieve information about other requests filed by the individual, and the electronic copy of the naturalization or certificate of citizenship. Specific data elements may include, but are not limited to:

- Full Name;
- Aliases;
- Physical and mailing addresses;
- A-Number;
- USCIS Online Account Number;
- SSN;
- Date of birth and/or death;
- Country of citizenship;
- Country of nationality;
- Country of residence;
- Place of birth;
- Gender;
- Marital status;
- Military membership or status;
- Phone and fax numbers (including mobile phone numbers);
- Email address;
- Immigration status;
- Biometric information (*e.g.,* fingerprints, photographs, signature) and other information used to conduct background and security checks;
- Physical description (*e.g.,* height, weight, eye color, hair color, race, ethnicity, identifying marks like tattoos or birthmarks);
- Government issued identification information (*i.e.,* passport, driver's license):
  - Document type;
  - Issuing organization;
  - Document number; and
  - Expiration date;
- Immigration benefit type and/or agency action requested (*e.g.,* deferred action);
- Supporting documentation as necessary (*e.g.* birth, marriage, and divorce certificates; licenses; academic diplomas and transcripts; appeals, requests for rehearing, and motions to reopen or reconsideration; explanatory statements; and unsolicited information submitted voluntarily by the individual seeking an immigration benefit or requesting agency action or family members in support of the request);
- Notices and communications, including:
  - Requests for evidence;
  - Notices of intent to deny, fine, or terminate; and
  - Proofs of benefit (*e.g.,* Employment Authorization Card, Permanent Resident Card);
- Signature;
- Fee payment information (*e.g.,* credit card number, *Pay.gov* Payment Tracking Number);
- Audio-visual recordings, including interviews and naturalization ceremonies;
- Travel history;
- Education history;
- Work history;
- Records regarding organization membership or affiliation;
- Family relationships (*e.g.,* parent, spouse, sibling, child, other dependents);
- Information regarding the status of DOJ, EOIR and BIA proceedings, if applicable;
- Case processing information such as the date an immigration request was filed or received by USCIS; status of such a request; location of record; other control number when applicable; and fee receipt data;
- Representative information, including:
  - Name;
  - Law Firm/recognized organization;
  - Physical and mailing addresses;
  - Phone and fax numbers;
  - Email address;
  - Attorney Bar Card Number or equivalent;
  - Bar membership;
  - BIA representative accreditation authorization and expiration dates;
  - Law practice restriction(s) explanation; and
  - Signature.
- Preparer and Interpreter information, including:
  - Full Name;
  - Business or Organization name;
  - Physical and mailing addresses;
  - Phone and fax numbers;
  - Email address; and
  - Signature.

E. NFTS contains the location of the A-File whether paper or electronic. Specific data elements include:

- A-Number;
- Receipt File Number;
- Primary immigration file tracking number (*e.g.,* A-Number, Receipt File Number, Certificate Number (C-Number), and Temporary Number (T-Number));
- Location of the paper A-File and Receipt File within the USCIS FCO, as well as the history of who has maintained the paper A-File, including the component, section, and employee; and
- Name of the USCIS FCO that has jurisdiction over a case maintained in USCIS ELIS and any transfer of jurisdiction to another USCIS office.

F. MiDAS is an online interactive application system that provides an automated means for searching an index to legacy immigrant records opened or indexed prior to 1975. The MiDAS Search Engine includes the Flexoline Index, documenting the issuance of A–Numbers to individuals between August 1940 and 1948, as well as a card index to physical A-Files opened between April 1, 1944 and 1975. MiDAS index data may be used to create or update a CIS record of an A-Number issued or A-File opened prior to 1975. Specific A-File index data elements may include, but are not limited to:

- A-Number;
- C-Number;
- Full name;
- Date of birth; and
- Place of birth (city, state, and country).

RECORD SOURCE CATEGORIES:

Basic information contained in DHS records is supplied by individuals on Department of State (DOS) and DHS applications and forms. Other information comes from publicly available information obtained from the Internet, public records, public institutions, interviewees, commercial data aggregators, inquiries or complaints from members of the general public and members of Congress, referrals of inquiries or complaints directed to the President or Secretary of Homeland Security, information shared through information sharing agreements, reports of investigations, sworn statements, correspondence, official reports, memoranda, and written referrals from other entities, including federal, state, and local governments, various courts and regulatory agencies, foreign government agencies, and international organizations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Information in this system of records contains information relating to persons who have pending or approved benefit requests for special protected classes and should not be disclosed pursuant to a routine use unless disclosure is otherwise permissible under the confidentiality statutes, regulations, or policies applicable to that information. For example, information relating to persons who have pending or approved benefit requests for protection under the Violence Against Women Act, Seasonal Agricultural Worker or Legalization claims, the Temporary Protected Status of an individual, and information relating to nonimmigrant visas protected under special confidentiality provisions should not be disclosed pursuant to a routine use unless disclosure is otherwise permissible under the confidentiality statutes, regulations, or policies applicable to that information. These confidentiality provisions do not prevent DHS from disclosing information to the DOJ and Offices of the United States Attorney as part of an ongoing criminal or civil investigation.

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To DOJ, including Offices of the U.S. Attorneys, or other federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;

2. Any employee or former employee of DHS in his/her official capacity;

3. Any employee or former employee of DHS in his/her individual capacity when DOJ or DHS has agreed to represent the employee; or

4. The United States or any agency thereof.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration (NARA) or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS determines that information from this system of records is reasonably necessary and otherwise compatible with the purpose of collection to assist another federal recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach; or

2. DHS suspects or has confirmed that there has been a breach of this system of records; and (a) DHS has determined that as a result of the suspected or confirmed breach, there is a risk of harm to individuals, harm to DHS (including its information systems, programs, and operations), the Federal Government, or national security; and (b) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate Federal, State, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To appropriate Federal, State, tribal, local, or foreign governmental agencies or multilateral governmental organizations responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, when DHS believes the information would assist in enforcing applicable civil or criminal laws.

I. To third parties during the course of a law enforcement investigation to the extent necessary to obtain information pertinent to the investigation.

J. To an organization or person in either the public or private sector, either foreign or domestic, when there is a reason to believe that the recipient is or could become the target of a particular terrorist activity or conspiracy, or when the information is relevant to the protection of life, property, or other vital interests of a person.

K. To clerks and judges of courts exercising naturalization jurisdiction for

the purpose of granting naturalization and administering naturalization oaths, and to enable such courts to determine eligibility for naturalization or grounds for revocation of naturalization.

L. To courts, magistrates, administrative tribunals, opposing counsel, parties, and witnesses, in the course of immigration, civil, or criminal proceedings before a court or adjudicative body when it is necessary or relevant to the litigation or proceeding and the following is a party to the proceeding or has an interest in the proceeding:

1. DHS or any component thereof; or

2. Any employee of DHS in his or her official capacity; or

3. Any employee of DHS in his or her individual capacity when the DOJ or DHS has agreed to represent the employee; or

4. The United States or any agency thereof.

M. To an attorney or representative (as defined in 8 CFR 1.2) who is acting on behalf of an individual covered by this system of records in connection with any proceeding before USCIS, ICE, or CBP or the DOJ EOIR, as required by law or as deemed necessary in the discretion of the Department.

N. To DOJ (including Offices of the United States Attorneys) or other federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body, when necessary to assist in the development of such agency's legal and/or policy position.

O. To DOS in the processing of petitions or applications for benefits under the INA, and all other immigration and nationality laws including treaties and reciprocal agreements; or when DOS requires information to consider and/or provide an informed response to a request for information from a foreign, international, or intergovernmental agency, authority, or organization about an alien or an enforcement operation with transnational implications.

P. To appropriate Federal, State, local, tribal, territorial, or foreign governments, as well as to other individuals and organizations during the course of an investigation by DHS or the processing of a matter under DHS's jurisdiction, or during a proceeding within the purview of the immigration and nationality laws, when DHS deems that such disclosure is necessary to carry out its functions and statutory mandates.

Q. To an appropriate Federal, State, local, tribal, territorial, or foreign government agency or organization, or international organization, lawfully engaged in collecting law enforcement intelligence, whether civil or criminal, or charged with investigating, prosecuting, enforcing, or implementing civil or criminal laws, related rules, regulations, or orders, to enable these entities to carry out their law enforcement responsibilities, including the collection of law enforcement intelligence and the disclosure is appropriate to the proper performance of the official duties of the person receiving the information.

R. To an appropriate Federal, State, local, tribal, territorial, foreign, or international agency, if the information is relevant to a requesting agency's decision concerning the hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit, or if the information is relevant to a DHS decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit.

S. To an appropriate Federal, State, local, tribal, territorial, foreign, or international agency, if DHS determines: (1) The information is relevant and necessary to that agency's decision concerning the hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; and (2) failure to disclose the information is likely to create a substantial risk to government facilities, equipment, or personnel; sensitive information; critical infrastructure; or public safety.

T. To appropriate Federal, State, local, tribal, or foreign governmental agencies or multilateral governmental organizations for the purpose of protecting the vital interests of a data subject or other persons, including to assist such agencies or organizations in preventing exposure to, or transmission of a communicable or quarantinable disease or to combat other significant public health threats; appropriate notice will be provided of any identified health threat or risk.

U. To an individual's current employer to the extent necessary to determine employment eligibility or to a prospective employer or government agency to verify whether an individual is eligible for a government-issued credential that is a condition of employment.

V. To a former employee of DHS, in accordance with applicable regulations, for purposes of: Responding to an official inquiry by a federal, state, or local government entity or professional licensing authority; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes when DHS requires information or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

W. To the Office of Management and Budget (OMB) in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in the Circular.

X. To the U.S. Senate Committee on the Judiciary or the U.S. House of Representatives Committee on the Judiciary when necessary to inform members of Congress about an alien who is being considered for private immigration relief.

Y. To a Federal, State, tribal, or local government agency and/or to domestic courts to assist such agencies in collecting the repayment of loans, or fraudulently or erroneously secured benefits, grants, or other debts owed to them or to the U.S. Government, or to obtain information that may assist DHS in collecting debts owed to the U.S. Government.

Z. To an individual or entity seeking to post or arrange, or who has already posted or arranged, an immigration bond for an alien, to aid the individual or entity in (1) identifying the location of the alien; (2) posting the bond; (3) obtaining payments related to the bond; or (4) conducting other administrative or financial management activities related to the bond.

AA. To a coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).

BB. Consistent with the requirements of the INA, to the Department of Health and Human Services (HHS), the Centers for Disease Control and Prevention (CDC), or to any state or local health authorities, to:

1. Provide proper medical oversight of DHS-designated Civil Surgeons who perform medical examinations of both arriving aliens and of those requesting status as lawful permanent residents; and

2. Ensure that all health issues potentially affecting public health and safety in the United States are being or have been, adequately addressed.

CC. To a Federal, State, local, tribal, or territorial government agency seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by law.

DD. To the Social Security Administration (SSA) for the purpose of issuing a SSN and card to an alien who has made a request for a SSN as part of the immigration process and in accordance with any related agreements in effect between the SSA, DHS, and DOS entered into pursuant to 20 CFR 422.103(b)(3), 422.103(c)(3), and 422.106(a), or other relevant laws and regulations.

EE. To Federal and foreign government intelligence or counterterrorism agencies or components when DHS becomes aware of an indication of a threat or potential threat to national or international security, or when such use is to conduct national intelligence and security investigations or assist in anti-terrorism efforts.

FF. To third parties to facilitate placement or release of an individual (*e.g.,* at a group home, homeless shelter) who has been or is about to be released from DHS custody, but only such information that is relevant and necessary to arrange housing or continuing medical care for the individual.

GG. To an appropriate domestic government agency or other appropriate authority for the purpose of providing information about an individual who has been or is about to be released from DHS custody who, due to a condition such as mental illness, may pose a health or safety risk to himself/herself or to the community. DHS will only disclose information about the individual that is relevant to the health or safety risk they may pose and/or the means to mitigate that risk (*e.g.,* the individual's need to remain on certain medication for a serious mental health condition).

HH. To foreign governments for the purpose of coordinating and conducting the removal of individuals to other nations under the INA; and to international, foreign, and intergovernmental agencies, authorities, and organizations in accordance with law and formal or informal international arrangements.

II. To a Federal, State, local, territorial, tribal, international, or foreign criminal, civil, or regulatory law enforcement authority when the information is necessary for collaboration, coordination, and de-confliction of investigative matters, prosecutions, and/or other law enforcement actions to avoid duplicative or disruptive efforts and to ensure the safety of law enforcement officers who may be working on related law enforcement matters.

JJ. To the DOJ Federal Bureau of Prisons and other Federal, State, local, territorial, tribal, and foreign law enforcement or custodial agencies for the purpose of placing an immigration detainer on an individual in that agency's custody, or to facilitate the transfer of custody of an individual from DHS to the other agency. This will include the transfer of information about unaccompanied minor children to HHS to facilitate the custodial transfer of such children from DHS to HHS.

KK. To Federal, State, local, tribal, territorial, or foreign governmental or quasi-governmental agencies or courts to confirm the location, custodial status, removal, or voluntary departure of an alien from the United States, in order to facilitate the recipients' exercise of responsibilities pertaining to the custody, care, or legal rights (including issuance of a U.S. passport) of the removed individual's minor children, or the adjudication or collection of child support payments or other debts owed by the removed individual.

LL. To a Federal, State, tribal, territorial, local, international, or foreign government agency or multilateral governmental organization for the purpose of consulting with that agency or entity: (1) To assist in making a determination regarding redress for an individual in connection with the operations of a DHS component or program; (2) for the purpose of verifying the identity of an individual seeking redress in connection with the operations of a DHS component or program; or (3) for the purpose of verifying the accuracy of information submitted by an individual who has requested such redress on behalf of another individual.

MM. To family members, guardians, committees, friends, or other agents identified by law or regulation to receive notification, decisions, and other papers as provided in 8 CFR 103.8 from DHS or EOIR following verification of a familial or agency relationship with an alien when DHS is aware of indicia of incompetency or when an immigration judge determines an alien is mentally incompetent.

NN. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of DHS or is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent the Chief Privacy Officer determines that release of the specific information in the context of a particular case would constitute a clearly unwarranted invasion of personal privacy.

OO. To domestic governmental agencies seeking to determine the immigration status of persons who have applied to purchase/obtain a firearm in the United States, pursuant to checks conducted on such persons under the Brady Handgun Violence Prevention Act or other applicable laws.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. The records may be stored on magnetic disc, tape, and digital media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

DHS/USCIS retrieves records by searching in CIS using the following data alone or in any combination:

- A-Number;
- Full name;
- Alias;
- Sounds-like name with or without date of birth;
- Certificate of Citizenship or Naturalization Certificate number;
- Driver's License number;
- FBI Identification/Universal Control Number;
- Fingerprint Identification Number;
- I–94 admission number;
- Passport number;
- SSN; or
- Travel Document number.

DHS/USCIS retrieves records by searching electronic A–Files in EDMS by any of the following fields alone or in any combination:

- A-Number;
- Last name;
- First name;
- Middle name;
- Aliases;
- Date of birth;
- Country of birth;
- Gender; and
- Through a full text-based search of records contained in the electronic A–File (based on optical character recognition of the scanned images).

DHS/USCIS retrieves records by searching in USCIS ELIS using the following data alone or in any combination:

- Full Name;
- Aliases;
- A-Number;
- USCIS Online Account Number;
- Date of birth;
- Immigration benefit type and/or agency action requested (*e.g.,* deferred action);

- Fee receipt data;
- Date benefit request was filed;
- Date benefit request was received;
- Representative name;
- Preparer name; and
- Interpreter name.

DHS/USCIS retrieves the location of A-Files, whether paper or electronic, by searching in NFTS using the following data:

- A-Number;
- USCIS Online Account Number; or
- Receipt File Number.

DHS/USCIS retrieves genealogy records and requests in MiDAS by searching the following data alone or in any combination:

- Requestor's first name;
- Requestor's last name;
- Requestor's Case and/or Control Number;
- Record subject's A–Number or immigration case file number;
- Record subject's first name;
- Record subject's last name; and
- Record subject's alias.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The official A-File record may take three possible forms: (1) Records contained within the paper A-File; (2) records contained within the electronic record from EDMS or USCIS ELIS; or (3) a combination of paper and electronic records and supporting documentation. A-File records are maintained in accordance with N1–566–08–11. DHS/USCIS transfers A-Files to the custody of NARA 100 years after the individual's date of birth.

CIS records are maintained in accordance with N1–566–10–01. CIS is an internal DHS-mission critical system that contains records that serve as a finding aid to agency case files. Records in CIS are permanently retained because they are the index of the A-File, summarize the history of an immigrant in the adjudication process, and identify the A-File location(s).

NFTS records are maintained in accordance with N1–566–06–01. NFTS records are temporary and deleted when they are no longer needed for agency business. NFTS records associated with an A-File will be retained on a permanent basis even after the A-File has been retired to NARA to retain accurate recordkeeping. Other immigration case files with a shorter retention period will have the associated NFTS record destroyed or deleted once the file has been destroyed.

MiDAS information (data and electronic images) pertaining to correspondence with the public and government requestor is retained and disposed every six years in accordance with the NARA General Records Schedules 4.2 and 14. The immigration case files contained in MiDAS are retained permanently. Records are transferred to NARA after 100 years after the last completed action.

Records replicated on the unclassified and classified networks for analysis and vetting will follow the same retention schedule.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

DHS/USCIS safeguards records in this system according to applicable rules and policies, including all applicable DHS automated systems security and access policies. USCIS has imposed strict controls to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RECORD ACCESS PROCEDURES:

The Secretary of Homeland Security has exempted this system from the notification, access, and amendment procedures of the Privacy Act, and those of the Judicial Redress Act (JRA) if applicable, because it is a law enforcement system. However, DHS/USCIS will consider individual requests to determine whether or not information may be released. Thus, individuals seeking access to and notification of any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the Chief Privacy Officer and USCIS Freedom of Information Act (FOIA) Officer, whose contact information can be found at *http://www.dhs.gov/foia* under ''Contacts Information.'' If an individual believes more than one component maintains Privacy Act records concerning him or her, the individual may submit the request to the Chief Privacy Officer and Chief Freedom of Information Act Officer, Department of Homeland Security, Washington, DC 20528–0655. Even if neither the Privacy Act nor the Judicial Redress Act provide a right of access, certain records about you may be available under the FOIA.

When seeking records about yourself from this system of records or any other Departmental system of records, your request must conform with the Privacy Act regulations set forth in 6 CFR part 5. You must first verify your identity, meaning that you must provide your full name, current address, and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Chief Privacy Officer and Chief Freedom of Information Act Officer, *http://www.dhs.gov/foia* or 1–866–431–0486. In addition, you should:

- Explain why you believe the Department would have information on you;
- Identify which component(s) of the Department you believe may have the information about you;
- Specify when you believe the records would have been created; and
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records.

If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without the above information, the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

CONTESTING RECORD PROCEDURES:

For records covered by the Privacy Act or covered JRA records, see ''access procedures'' above.

NOTIFICATION PROCEDURES:

See ''Record Access procedure.''

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

The Secretary of Homeland Security has exempted this system from the following provisions of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2): 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (e)(12), (f), (g)(1), and (h). Additionally, the Secretary of Homeland Security has exempted this system from the following provisions of the Privacy Act pursuant to 5 U.S.C. 552a(k)(1) and (k)(2): 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f).

When this system receives a record from another system exempted in that source system under 5 U.S.C. 552a(j)(2), DHS will claim the same exemptions for those records that are claimed for the original primary systems of records from which they originated and claims any additional exemptions set forth here.

HISTORY:

DHS/USCIS/ICE/CBP–001 Alien File, Index, and National File Tracking

System of Records, 78 FR 69864 (Nov. 21, 2013); Alien File, Index, and National File Tracking SORN, 76 FR 34233l (Jun. 13, 2011); Alien File (A-File) and Central Index System (CIS) Systems of Records 78 FR 1755 (Jan. 16, 2007).

Jonathan R. Cantor,

Acting Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2017–19365 Filed 9–15–17; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Immigration and Customs Enforcement

[OMB Control Number 1653–0038]

Agency Information Collection Activities: Student and Exchange Visitor Information System (SEVIS); Extension, Without Change, of a Currently Approved Collection

AGENCY: U.S. Immigration and Customs Enforcement, Department of Homeland Security.

NOTICE: 60-day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for sixty days until November 17, 2017.

ADDRESSES: Written comments and suggestions regarding items contained in this notice and especially with regard to the estimated public burden and associated response time should be directed the Department of Homeland Security (DHS), PRA Clearance Officer, U.S. Immigrations and Customs Enforcement, 801 I Street NW., Mailstop 5800, Washington, DC 20536–5800.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, without change, of a currently approved information collection.

(2) *Title of the Form/Collection:* Student and Exchange Visitor Information System (SEVIS).

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Forms I–17 and I–20; U.S. Immigration and Customs Enforcement.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary Non-profit institutions and individuals or households. SEVIS is an Internet-based data-entry, collection and reporting system. It collects information on SEVP-certified schools via the Form I–17, ''Petition for Approval of School for Attendance by Nonimmigrant Student,'' and collects information on the F and M nonimmigrant students that the SEVP-certified schools admit into their programs of study via the Forms I–20s: ''Certificate of Eligibility for Nonimmigrant (F–1) Student Status—For Academic and Language Students'' and ''Certificate of Eligibility for Nonimmigrant (M–1) Student Status—For Vocational Students''.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:*

Number of respondents	Form name/Form No.	Average burden per response (in hours)
280,000	Certificate of Eligibility for Nonimmigrant (F–1) Student Status—For Academic and Language Students/ICE Form I–20 (Students).	0.5
90,000	Certificate of Eligibility for Nonimmigrant (M–1) Student Status—For Academic and Language Students/ICE Form I–20 (Spouse/Dependents).	0.5
280,000	Optional Practical Training 12 Month Request/No Form	0.083
12,000	Optional Practical Training 17 Month Extension Request/No Form	0.083
5,525	Maintenance of SEVP Certification/ICE Form I–17	4

(6) *An estimate of the total public burden (in hours) associated with the collection:* 1,027,884 annual burden hours.

Dated: September 12, 2017.

Scott Elmore,

PRA Clearance Officer, Office of the Chief Information Officer, U.S. Immigration and Customs Enforcement, Department of Homeland Security.

[FR Doc. 2017–19713 Filed 9–15–17; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Immigration and Customs Enforcement

[OMB Control Number 1653–NEW]

Agency Information Collection Activities: 287(g) Needs Assessment; New Collection

AGENCY: U.S. Immigration and Customs Enforcement, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE) will be submitting the following new information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for sixty days until November 17, 2017.

ADDRESSES: All submissions received must include the OMB Control Number 1653–NEW in the subject box and the agency name. To avoid duplicate submissions, please use only one of the following methods to submit comments:

(1) *Email.* Submit comments to *forms.ice@ice.dhs.gov;*

(2) *Mail.* Submit written comments to DHS, USICE, PRA Clearance Officer, 801 I Street NW., Washington, DC 20536–5800.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New information collection.

(2) *Title of the Form/Collection:* 287(g) Needs Assessment.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* U.S. Immigration and Customs Enforcement.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State or Local governments. This questionnaire is used for the purposes of allowing ICE to evaluate a state or local law enforcement agency that has expressed interest in partnering with ICE under Section 287(g) of the Immigration and Nationality Act so that its officers may be delegated the authority to perform the functions of an immigration officer under a signed memorandum of agreement. The prospective law enforcement agency provides this information to ICE as part of ICE's process to evaluate the agency's suitability to partner with ICE.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 50 responses at 60 minutes (1 hour) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 50 annual burden hours.

Dated: September 13, 2017.

Scott Elmore,

PRA Clearance Officer, Office of the Chief Information Officer, U.S. Immigration and Customs Enforcement, Department of Homeland Security.

[FR Doc. 2017–19736 Filed 9–15–17; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[17X.LLAZ956000.L14400000.BJ0000. LXSSA225000.241A]

Notice of Filing of Plats of Survey; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The plats of survey of the following described lands were officially filed in the Bureau of Land Management (BLM), Arizona State Office, Phoenix, Arizona, on the dates indicated. Surveys announced in this notice are necessary for the management of lands administered by the agencies indicated.

ADDRESSES: These plats will be available for inspection in the Arizona State Office, Bureau of Land Management, One North Central Avenue, Suite 800, Phoenix, Arizona, 85004–4427. Protests of the survey should be sent to the Arizona State Director at this address.

FOR FURTHER INFORMATION CONTACT: Gerald Davis, Chief Cadastral Surveyor of Arizona; (602) 417–9558; *gtdavis@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

The Gila and Salt River Meridian, Arizona

The supplemental plat, in two sheets, showing the relotting in sections 5 and 6, Township 14 North, Range 10 East, accepted July 13, 2017, and officially filed July 14, 2017, for Group 9110, Arizona.

This plat was prepared at the request of the United States Forest Service.

The plat, in two sheets, representing the dependent resurvey of a portion of the Fourth Standard Parallel North (south boundary), a portion of the subdivisional lines, and the meanders of the abandoned left bank of the Colorado River, through sections 20 and 32, the survey of division of accretion lines, the traverse of a portion of the abandoned left bank of the Colorado River through sections 19 and 29, and a portion of the subdivision of section 20, and the survey of the fixed and limiting boundary of the abandoned left bank of the Colorado River through section 31, the subdivision of section 28, the metes-and-bounds survey in the northeast quarter of section 28, the survey of the north and south boundaries of the easement for the Topock Inlet Canal adjacent to the accretions in sections 19, 20 and 29, Township 17 North, Range 21 West, accepted August 2, 2017, and officially filed August 3,2017, for Group 1154, Arizona.

This plat was prepared at the request of the Bureau of Reclamation.

The plat representing the dependent resurvey of a portion of the east boundary, and the surveys of the division of accretion line between

Ranges 21 and 22 West, and a portion of the meanders of the left bank of the Colorado River in section 24, and the metes-and-bounds survey of the north and south boundaries of the easement for the Topock Inlet Canal adjacent to and within the accretions of section 24, Township 17 North, Range 22 West, accepted August 2, 2017, and officially filed August 3, 2017, for Group 1154, Arizona.

This plat was prepared at the request of the Bureau of Reclamation.

The San Bernardino Meridian, Arizona

The plat representing the dependent resurvey of a portion of the subdivisional lines and the 1883 meanders of the right bank of the Colorado River, and the subdivision of section 4, the survey of an informative traverse and metes-and-bounds survey of the right bank of the abandoned channel of the Colorado River, and the division of accretion line the northeast quarter of section 4, Township 8 North, Range 23 East, accepted August 2, 2017, and officially filed August 3, 2017, for Group 1154, Arizona.

This plat was prepared at the request of the Bureau of Reclamation.

The plat, in three sheets, representing the dependent resurvey of a portion of the south boundary, and a portion of the subdivisional lines, and the informative traverses of the 1883 right bank of the Colorado River through sections 33 and 34, the subdivision of section 33, the informative traverse and metes-and-bounds survey of the right bank of the abandoned channel of the Colorado River in sections 33 and 34, the informative traverse of the medial line of the abandoned channel of the Colorado River adjacent to sections 33 and 34, the survey of the north and south boundaries of the Topock Inlet Canal lease within the abandoned channel of the Colorado River, a retracement of a portion of a land description and a survey made part of CV–98–4072, in the Superior Court of Arizona, in and for the County of Mohave, Township 9 North, Range 23 East, accepted August 2, 2017, and officially filed August 3, 2017, for Group 1154, Arizona.

This plat was prepared at the request of the Bureau of Reclamation.

A person or party who wishes to protest against any of these surveys must file a written notice of protest within 30 calendar days from the date of this publication with the Arizona State Director, Bureau of Land Management, stating that they wish to protest.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the protest is filed. Before including your address, or other personal information in your protest, please be aware that your entire protest, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 43 U.S.C. Chap. 3.

Gerald T. Davis,

Chief Cadastral Surveyor of Arizona.

[FR Doc. 2017–19761 Filed 9–15–17; 8:45 am]

BILLING CODE 4310–32–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1012]

Certain Magnetic Data Storage Tapes and Cartridges Containing the Same; Notice of Request for Statements on the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the presiding administrative law judge has issued a Final Initial Determination and Recommended Determination on Remedy and Bonding in the above-captioned investigation. The Commission is soliciting comments on public interest issues raised by the recommended relief, specifically a limited exclusion order and cease and desist orders against respondents Sony Corporation, Sony Corporation of America, and Sony Electronics Inc. This notice is soliciting public interest comments from the public only. Parties are to file public interest submissions pursuant to Commission rules.

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–2301. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server (*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: Section 337 of the Tariff Act of 1930 provides that if the Commission finds a violation it shall exclude the articles concerned from the United States:

> unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry.

19 U.S.C. 1337(d)(1). A similar provision applies to cease and desist orders. 19 U.S.C. 1337(f)(1).

The Commission is interested in further development of the record on the public interest in these investigations. Accordingly, parties are to file public interest submissions pursuant to pursuant to 19 CFR 210.50(a)(4). In addition, members of the public are hereby invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the administrative law judge's Recommended Determination on Remedy and Bonding issued in this investigation on September 12, 2017. Comments should address whether issuance of a limited exclusion order and cease and desist orders in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the recommended orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to

replace the volume of articles potentially subject to the recommended exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the limited exclusion order and cease and desist orders would impact consumers in the United States.

Written submissions from the public must be filed no later than by close of business on October 10, 2017.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (''Inv. No. 337–TA–1012'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *https://www.usitc.gov/secretary/documents/handbook_on_filing_procedures.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.50 of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.50).

By order of the Commission.

Issued: September 13, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–19796 Filed 9–15–17; 8:45 am]

BILLING CODE 7020–02–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Civil Procedure

AGENCY: Advisory Committee on Rules of Civil Procedure, Judicial Conference of the United States.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Civil Procedure will hold a meeting on November 7, 2017. The meeting will be open to public observation but not participation. An agenda and supporting materials will be posted at least 7 days in advance of the meeting at: *http://www.uscourts.gov/rules-policies/records-and-archives-rules-committees/agenda-books.*

DATES: November 7, 2017.

Time: 9:00 a.m. to 5:00 p.m.

ADDRESSES: Thurgood Marshall Federal Judiciary Building, FJC Training Rooms, One Columbus Circle NE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Rebecca A. Womeldorf, Rules Committee Secretary, Rules Committee Staff, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: September 13, 2017.

Rebecca A. Womeldorf,

Rules Committee Secretary.

[FR Doc. 2017–19820 Filed 9–15–17; 8:45 am]

BILLING CODE 2210–55–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Appellate Procedure

AGENCY: Judicial Conference of the United States, Advisory Committee on Rules of Appellate Procedure

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Appellate Procedure will hold a meeting on November 9, 2017. The meeting will be open to public observation but not participation. An agenda and supporting materials will be posted at least 7 days in advance of the meeting at: *http://www.uscourts.gov/rules-policies/records-and-archives-rules-committees/agenda-books.*

DATES: November 9, 2017.

Time: 9:00 a.m. to 5:00 p.m.

ADDRESSES: Thurgood Marshall Federal Judiciary Building, Mecham Conference Center, Administrative Office of the United States Courts, One Columbus Circle NE., Washington, DC 20544.

FOR FURTHER INFORMATION CONTACT: Rebecca A. Womeldorf, Rules Committee Secretary, Rules Committee Staff, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: September 13, 2017.

Rebecca A. Womeldorf,

Rules Committee Secretary.

[FR Doc. 2017–19819 Filed 9–15–17; 8:45 am]

BILLING CODE 2210–55–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Open Platform for NFV Project, Inc.

Notice is hereby given that, on August 23, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Open Platform for NFV Project, Inc. (''Open Platform for NFV Project'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Institute for Information Industry, Taipei, TAIWAN, has been added as a party to this venture.

Also, Beijing Internet Institute, Beijing, PEOPLE'S REPUBLIC OF CHINA, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Open Platform for NFV Project intends to file additional written notifications disclosing all changes in membership.

On October 17, 2014, Open Platform for NFV Project filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 14, 2014 (79 FR 68301).

The last notification was filed with the Department on May 30, 2017. A notice was published in the **Federal**

Register pursuant to Section 6(b) of the Act on June 28, 2017 (82 FR 29328).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017–19791 Filed 9–15–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—fd.Io Project, Inc.

Notice is hereby given that, on August 24, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), fd.io Project, Inc. (''fd.io'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ARM Ltd., Cambridge, UNITED KINGDOM; Linaro Limited, Cambridge, UNITED KINGDOM; Rubicon Communications LLC dba Netgate, Austin, TX; and CENGN (Centre of Excellence in Next Generation Networks), Ottawa, CANADA, have been added as parties to this venture.

Also, Brocade Communications Systems, Inc., San Jose, CA, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and fd.io intends to file additional written notifications disclosing all changes in membership.

On May 4, 2016, fd.io filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 9, 2016 (81 FR 37211).

The last notification was filed with the Department on May 30, 2017. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on June 28, 2017 (82 FR 29329).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017–19789 Filed 9–15–17; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: AMPAC Fine Chemicals LLC

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before November 17, 2017.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on August 16, 2017, AMPAC Fine Chemicals LLC, Highway 50 and Hazel Avenue, Building 05001, Rancho Cordova, California 95670 applied to be registered as a bulk manufacturer of levomethorphan (9210), a basic class of controlled substance in schedule II.

The company plans to manufacture the listed controlled substance as an intermediate in the bulk manufacture of other controlled substances for distribution to its customers.

Dated: September 11, 2017.

Demetra Ashley,

Acting Assistant Administrator.

[FR Doc. 2017–19831 Filed 9–15–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Catalent Centers, LLC

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before October 18, 2017. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before October 18, 2017.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on July 25, 2017, Catalent Centers, LLC, 10245 Hickman Mills Drive, Kansas City, Missouri 64137 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Gamma Hydroxybutyric Acid	2010	I
Marihuana Extract	7350	I
Marihuana	7360	I

The company plans to import finished dosage unit products containing gamma-hydroxybutryic acid and cannabis extracts for clinical trial studies.

These cannabis extracts compounds are listed under drug code 7350. No other activity for these drug codes is authorized for this registration. Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of FDA approved or non-approved finished dosage forms for commercial sale.

Dated: September 11, 2017.

Demetra Ashley,

Acting Assistant Administrator.

[FR Doc. 2017–19833 Filed 9–15–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Specgx LLC

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before November 17, 2017.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on August 9, 2017, Specgx LLC, 3600 North Second Street, Saint Louis, Missouri 63147 applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Gamma Hydroxybutyric Acid	2010	I
Tetrahydrocannabinols	7370	I
Codeine-N-oxide	9053	I
Dihydromorphine	9145	I
Difenoxin	9168	I
Morphine-N-oxide	9307	I
Normorphine	9313	I
Norlevorphanol	9634	I
Acetyl Fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide)	9821	I
Butyryl Fentanyl	9822	I
Amphetamine	1100	II
Methamphetamine	1105	II
Lisdexamfetamine	1205	II
Methylphenidate	1724	II
Nabilone	7379	II
4-Anilino-N-phenethyl-4-piperidine (ANPP)	8333	II
Codeine	9050	II
Dihydrocodeine	9120	II
Oxycodone	9143	II
Hydromorphone	9150	II
Diphenoxylate	9170	II
Ecgonine	9180	II
Hydrocodone	9193	II
Levorphanol	9220	II
Meperidine	9230	II
Methadone	9250	II
Methadone intermediate	9254	II
Dextropropoxyphene, bulk (non-dosage forms)	9273	II
Morphine	9300	II
Oripavine	9330	II
Thebaine	9333	II
Opium tincture	9630	II
Opium, powdered	9639	II
Oxymorphone	9652	II
Noroxymorphone	9668	II
Alfentanil	9737	II
Remifentanil	9739	II
Sufentanil	9740	II
Tapentadol	9780	II
Fentanyl	9801	II

The company plans to manufacture bulk active pharmaceutical ingredients (APIs) for distribution to its customers.

Dated: September 13, 2017

Demetra Ashley,

Acting Assistant Administrator.

[FR Doc. 2017–19786 Filed 9–15–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Specgx LLC

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before October 18, 2017. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before October 18, 2017.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All request for hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on August 9, 2017, Specgx LLC, 3600 North Second Street, Saint Louis, Missouri 63147 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Marihuana	7360	I
Phenylacetone	8501	II
Coca Leaves	9040	II
Opium, raw	9600	II
Poppy Straw Concentrate.	9670	II

The company plans to import the listed controlled substances to bulk manufacture into Active Pharmaceutical Ingredients for distribution to its customers. In reference to drug code 7360 (marihuana) the company plans to import a synthetic cannabidiol. No other activity for this drug code is authorized for this registration. Placement of these drug codes onto the company's registration does not translate into automatic approval of subsequent permit applications to import controlled substances. Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of FDA approved or non-approved finished dosage forms for commercial sale.

Dated: September 11, 2017.

Demetra Ashley,

Acting Assistant Administrator.

[FR Doc. 2017–19784 Filed 9–15–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Halo Pharmaceutical, 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 November 17, 2017.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on July 11, 2017, Halo Pharmaceutical, Inc., 30 North Jefferson Road, Whippany, New Jersey 07981 applied to be registered as a bulk manufacturer the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Dihydromorphine	9145	I
Hydromorphone	9150	II

The company plans to manufacture Hydromorphone (9150) for distribution to its customers. Dihydromorphine (9145) is an intermediate in the manufacture of Hydromorphone and is not for commercial distribution.

Dated: September 11, 2017.

Demetra Ashley,

Acting Assistant Administrator.

[FR Doc. 2017–19834 Filed 9–15–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Unither Manufacturing LLC

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before October 18, 2017. Such persons may also file a written request

for a hearing on the application pursuant to 21 CFR 1301.43 on or before October 18, 2017.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on April 19, 2017, Unither Manufacturing LLC, 331 Clay Road, Rochester, New York 14623 applied to be registered as an importer of methylphenidate (1724), a basic class of controlled substance listed in schedule II.

The company plans to import the listed substance solely for updated analytical testing purposes for EU customer requirements. This analysis is required to allow the company to export domestically-manufactured FDF to foreign markets.

Dated: September 11, 2017.

Demetra Ashley,

Acting Assistant Administrator.

[FR Doc. 2017–19830 Filed 9–15–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Sharp Clinical Services, 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 on or before October 18, 2017. Such persons may also file a written request for a hearing on the application on or before October 18, 2017.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on August 23, 2017, Sharp Clinical Services, Inc., 300 Kimberton Road, Phoenixville, Pennsylvania 19460 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Marihuana	7360	I
3,4-Methylenedioxymethamphetamine.	7405	I
Psilocybin	7437	I

The company plans to import the listed controlled substances for analytical research, testing, and clinical trials. No other activity for these drug codes is authorized for this registration. Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of FDA approved or non-approved finished dosage forms for commercial sale.

Dated: September 11, 2017.

Demetra Ashley,

Acting Assistant Administrator.

[FR Doc. 2017–19836 Filed 9–15–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Mylan Pharmaceuticals, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before October 18, 2017. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before October 18, 2017.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All request for hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on March 24, 2017, Mylan Pharmaceuticals, Inc., 2898 Manufacturers Road, Greensboro, North Carolina 27406 applied to be registered as an importer of nabilone (7379), a basic class of controlled substance listed in schedule II.

The company plans to import the FDA approved drug product in finished dosage form for distribution to its customers. Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2).

Dated: September 11, 2017.

Demetra Ashley,

Acting Assistant Administrator.

[FR Doc. 2017–19832 Filed 9–15–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

[OMB Number 1110–NEW]

Agency Information Collection Activities; Proposed eCollection, eComments Requested; Crime Data Explorer Feedback Survey

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Federal Bureau of Investigation (FBI), Criminal Justice Information Services Division (CJIS), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until November 17, 2017.

FOR FURTHER INFORMATION CONTACT: All comments, suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Mrs. Amy C. Blasher, Unit Chief, Federal Bureau of Investigation, Criminal Information Services Division, Module E–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306; facsimile (304) 625–3566.

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 Federal Bureau of Investigation, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* New collection.

2. *The Title of the Form/Collection:* Crime Data Explorer Feedback Survey.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* No form number. The applicable component within the Department of Justice is the Criminal Justice Information Services Division, in the Federal Bureau of Investigation.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Law enforcement, academia and the general public. Abstract: This survey is needed to collect feedback on the functionality of the CDE in order to make improvements to the application.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* UCR Crime Data Explorer Burden Estimation: It is estimated the CDE will generate 200 feedback responses per year with an estimated response time of 2 minutes per response.

6. *An estimate of the total public burden (in hours) associated with the collection:* There are approximately 7 hours, annual burden, associated with this information collection.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405A, Washington, DC 20530.

Dated: September 13, 2017.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2017–19814 Filed 9–15–17; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act, Clean Air Act, Emergency Planning and Community Right-To-Know Act, and Resource Conservation and Recovery Act

On September 12, 2017, the Department of Justice lodged a proposed consent decree with the United States District Court for the Western District of Pennsylvania in the lawsuit entitled *United States* v. *StarKist Co. and Starkist Samoa Co.,* Civil Action No. 2:17–cv–01190–DSC.

The United States filed this lawsuit under the Clean Water Act (CWA), Clean Air Act (CAA), Emergency Planning and Community Right-to-Know Act (EPCRA), and the Resource Conservation and Recovery Act (RCRA). The complaint seeks injunctive relief and civil penalties for violations of these statutes and their implementing regulations at defendants' seafood processing and canning facility in American Samoa. Specifically, the complaint alleges the following CWA violations: (1) Unpermitted discharges of wastewater through an outfall rupture in 2014; (2) violations of terms and conditions of the facility's National Pollutant Discharge Elimination System Permit, including effluent limit violations; and (3) violations of the CWA's Spill Prevention Control and Countermeasures regulations related to the facility's oil storage tanks. The complaint also alleges violations of the

Clean Air Act related to the handling of ammonia, butane, and chlorine at the facility. Finally, the complaint also alleges violations of the CAA, EPCRA, and RCRA that the defendants disclosed to EPA following an audit.

The proposed consent decree requires the defendants to perform injunctive relief, pay a $6,300,000 civil penalty, and perform a Supplemental Environmental Project benefitting local first responders. The injunctive relief includes: Installing and operating upgrades to the facility's wastewater treatment system; upgrading the facility's oil storage tanks; making improvements to the facility's ammonia refrigeration system to prevent and minimize potential releases; discontinuing use of chlorine gas and a butane filling station at the facility; implementing an environmental management system for the facility; and performing annual third-party compliance audits. The Supplemental Environmental Project requires defendants to purchase and donate certain emergency response equipment to the American Samoa Fire Department.

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. *StarKist Co. and Starkist Samoa Co.,* D.J. Ref. No. 90–5–1–1–11357. 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 consent decree may be examined and downloaded at this Justice Department Web site: *http://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 $11.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Henry S. Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2017–19715 Filed 9–15–17; 8:45 am]

BILLING CODE 4410–15–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Information Security Oversight Office

[NARA–2017–065]

National Industrial Security Program Policy Advisory Committee

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of advisory committee meeting

SUMMARY: We are announcing an upcoming National Industrial Security Program Policy Advisory Committee (NISPPAC) meeting, in accordance with the Federal Advisory Committee Act and implementing regulation 41 CFR 101–6.

DATES: The meeting will be on November 1, 2017, from 10:00 a.m. to 12:00 p.m. EST.

ADDRESS: National Archives and Records Administration (NARA), 700 Pennsylvania Avenue NW., Archivist's Reception Room, Room 105, Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Robert Tringali, Program Analyst, by mail at ISOO, National Archives Building, 700 Pennsylvania Avenue NW., Washington, DC 20408, by telephone at (202) 357–5335, or by email at *robert.tringali@nara.gov.* Contact ISOO at *ISOO@nara.gov* and the NISPPAC at *NISPPAC@nara.gov.*

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to discuss National Industrial Security Program policy matters. The meeting will be open to the public. However, due to space limitations and access procedures, you must submit the name and telephone number of individuals planning to attend to the Information Security Oversight Office (ISOO) no later than Friday, October 27, 2017. ISOO will then provide additional instructions for accessing the meeting's location.

Patrice Little Murray,

Committee Management Officer.

[FR Doc. 2017–19721 Filed 9–15–17; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Office of Government Information Services

[NARA–2017–064]

Freedom of Information Act (FOIA) Advisory Committee; meeting

AGENCY: Office of Government Information Services (OGIS), National Archives and Records Administration (NARA).

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: We are announcing an upcoming Freedom of Information Act (FOIA) Advisory Committee meeting, in accordance with the Federal Advisory Committee Act and the second United States Open Government National Action Plan (NAP) released on December 5, 2013.

DATES: The meeting will be on October 19, 2017, from 10:00 a.m. to 1:00 p.m. EDT. You must register for the meeting by 5:00 p.m. EDT on October 17, 2017.

Location: National Archives and Records Administration (NARA); 700 Pennsylvania Avenue NW.; William G. McGowan Theater, Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Amy Bennett, Designated Federal Officer for this committee, by mail at National Archives and Records Administration; Office of Government Information Services; 8601 Adelphi Road—OGIS; College Park, MD 20740–6001, by telephone at 202–741–5770, or by email at *foia-advisory-committee@nara.gov.*

SUPPLEMENTARY INFORMATION: *Agenda and meeting materials:* You may find all meeting materials at *https://ogis.archives.gov/foia-advisory-committee/2016-2018-term/Meetings.htm.* This will be the sixth meeting of the second committee term. The purpose of this meeting will be to review the work of the committee's three subcommittees. *https://ogis.archives.gov/foia-advisory-committee/2016-2018-term/Subcommittees.htm.*

Procedures: The meeting is open to the public. Due to access procedures, you must register in advance if you wish to attend the meeting. You will also go through security screening when you enter the building. Registration for the meeting will go live via Eventbrite on September 29, 2017, at 10:00 a.m. EDT. To register for the meeting, please do so at this Eventbrite link: *https://www.eventbrite.com/e/freedom-of-*

information-act-foia-advisory-committee-meeting-october-19-2017-registration-30857701215.

This program will be live-streamed on the US National Archives' YouTube channel, *https://www.youtube.com/user/usnationalarchives/playlists.* The webcast will include a captioning option. To request additional accommodations (*e.g.,* a transcript), email *foia-advisory-committee@nara.gov* or call 202–741–5770. Members of the media who wish to register, those who are unable to register online, and those who require special accommodations, should contact Amy Bennett at the phone number, mailing address, or email address listed above.

Patrice Little Murray,

Committee Management Officer.

[FR Doc. 2017–19720 Filed 9–15–17; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) Meeting of the ACRS Subcommittee on Plant Operations and Fire Protection; Notice of Meeting

The ACRS Subcommittee on Plant Operations and Fire Protection will hold a meeting on September 20, 2017, at 11545 Rockville Pike, Room T–2B1, Rockville, Maryland 20852.

This meeting will be open to public attendance. The agenda for the subject meeting shall be as follows:

Wednesday, September 20, 2017—1:00 a.m. Until 5:00 p.m.

The Subcommittee will review the Plant Operations and Fire Protection Program for New Reactors and 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), Quynh Nguyen (Telephone 301–415–5844 or Email *Quynh.Nguyen@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 20852. After registering with Security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: September 11, 2017.

Mark L. Banks,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2017–19800 Filed 9–15–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Northwest Medical Isotopes; Notice of Meeting

The ACRS Subcommittee on Northwest Medical Isotopes will hold a meeting on September 21, 2017, at 11545 Rockville Pike, Room T–2B1, Rockville, Maryland 20852.

The meetings 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 meetings shall be as follows:

Thursday, September 21, 2017—8:30 a.m. Until 1:00 p.m.

The Subcommittee will review and comment on the Northwest Medical Isotopes construction permit application preliminary safety analysis report and the draft NRC safety evaluation reports for a Mo99 radioisotope production facility.

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), Kathy Weaver (Telephone 301–415–6236 or Email: *Kathy.Weaver@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 20852. After

registering with Security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: September 12, 2017.

Mark L. Banks,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2017–19801 Filed 9–15–17; 8:45 am]

BILLING CODE 7590–01–P

PEACE CORPS

Information Collection Request: Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 30-day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 30 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

DATES: Submit comments on or before October 18, 2017.

ADDRESSES: Comments should be addressed to Denora Miller, FOIA/Privacy Act Officer. Denora Miller can be contacted by telephone at 202–692–1236 or email at *pcfr@peacecorps.gov.* Email comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: Denora Miller at Peace Corps address above.

SUPPLEMENTARY INFORMATION:

Title: Peace Corps Response Reference Forms.

OMB Control Number: 0420–0548.

Type of Request: Revision of a currently approved collection.

Affected Public: Individuals.

Respondents Obligation to Reply: Voluntary.

Burden to the Public:

Estimated burden (hours) of the collection of information:

a. Number of interviewed applicants:* 1000

b. Number of references required per interviewed applicant: 2

c. Estimated number of reference forms received: 2000

d. Frequency of response: One time

e. Completion time: 10 minutes

f. Annual burden hours: 333 hours

* Reference information is collected only if an applicant is contacted for an interview.

General Description of Collection: Peace Corps Response uses the staff, personal and professional reference forms to learn from someone who knows the applicant and his or her background whether the applicant possesses the necessary characteristics and skills to serve as Peace Corps Response Volunteer.

Request for Comment: Peace Corps invites comments on whether the proposed collections of information are necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice is issued in Washington, DC, on September 13, 2017.

Denora Miller,

FOIA/Privacy Act Officer, Management.

[FR Doc. 2017–19813 Filed 9–15–17; 8:45 am]

BILLING CODE 6051–01–P

PEACE CORPS

Information Collection Request; Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 30 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

DATES: Submit comments on or before October 18, 2017.

ADDRESSES: Comments should be addressed to Denora Miller, FOIA/Privacy Act Officer. Denora Miller can be contacted by telephone at 202–692–1236 or email at *pcfr@peacecorps.gov.* Email comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: Denora Miller at Peace Corps address above.

SUPPLEMENTARY INFORMATION:

Title: Peace Corps Response Application.

OMB Control Number: 0420–0547.

Type of Request: Revision of a currently approved collection.

Affected Public: Individuals.

Respondents Obligation to Reply: Voluntary.

Respondents: Potential Volunteers.

Burden to the Public:

Estimated burden (hours) of the collection of information:

a. *Number of respondents:* 3,500.

b. *Frequency of response:* One time.

c. *Completion time:* 60 minutes.

d. *Annual burden hours:* 3,500 hours.

General description of collection: The Peace Corps Response Application (hereinafter ''the Application'') is necessary to recruit qualified volunteers to serve in Peace Corps Response, which sends Volunteers throughout the world to work in specialized short term projects. Applicants are selected based on their qualifications for a specific Volunteer assignment.

Request for comment: Peace Corps invites comments on whether the proposed collections of information are necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice is issued in Washington, DC, on September 13, 2017.

Denora Miller,

FOIA/Privacy Act Officer, Management.

[FR Doc. 2017–19816 Filed 9–15–17; 8:45 am]

BILLING CODE 6051–01–P

PEACE CORPS

Information Collection Request; Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 30 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance

with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

DATES: Submit comments on or before October 18, 2017.

ADDRESSES: Comments should be addressed to Denora Miller, FOIA/Privacy Act Officer. Denora Miller can be contacted by telephone at 202–692–1236 or email at *pcfr@peacecorps.gov.* Email comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: Denora Miller at Peace Corps address above.

SUPPLEMENTARY INFORMATION:

Title: Peace Corps Response Interview Assessment.

OMB Control Number: 0420–0556.

Type of Request: Revision of a currently approved collection.

Affected Public: Individuals.

Respondents Obligation to Reply: Voluntary.

Respondents: Potential Volunteers.

Burden to the Public:

Estimated burden (hours) of the collection of information:

a. *Number of respondents:* 1,000.

b. *Frequency of response:* One time.

c. *Completion time:* 60 minutes.

d. *Annual burden hours:* 1,000 hours.

General description of collection: The Peace Corps Response interview is necessary to assess applicants' qualifications and eligibility to serve in Peace Corps Response. The interview is a critical point in the recruitment process, as it is the point when the applicant and the recruitment and placement specialist verbally discuss the nature of the Volunteer assignment.

Request for comment: Peace Corps invites comments on whether the proposed collections of information are necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice is issued in Washington, DC, on September 13, 2017.

Denora Miller,

FOIA/Privacy Act Officer, Management.

[FR Doc. 2017–19815 Filed 9–15–17; 8:45 am]

BILLING CODE 6051–01–P

PEACE CORPS

Information Collection Request; Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

DATES: Submit comments on or before November 17, 2017.

ADDRESSES: Comments should be addressed to Denora Miller, FOIA/Privacy Act Officer. Denora Miller can be contacted by telephone at 202–692–1236 or email at *pcfr@peacecorps.gov.* Email comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: Denora Miller at Peace Corps address above.

SUPPLEMENTARY INFORMATION:

Title: Rating Tool Interview Form.

OMB Control Number: 0420–0555.

Type of Request: Review/Re-Approve.

Affected Public: Individuals.

Respondents Obligation to Reply: Voluntary.

Burden to the Public:

Estimated burden (hours) of the collection of information:

a. *Number of respondents:* 10,000.

b. *Frequency of response:* one time.

c. *Completion time:* 90 minutes.

d. *Annual burden hours:* 15,000 hours.

General description of collection: The Peace Corps will use the information as an integral part of the selection process to learn whether an applicant possesses the necessary characteristics and skills to serve as a Peace Corps Volunteer. The information will be used to determine if an invitation to serve will be issued.

Request for comment: Peace Corps invites comments on whether the proposed collections of information are necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice is issued in Washington, DC, on September 12, 2017.

Denora Miller,

FOIA/Privacy Act Officer, Management.

[FR Doc. 2017–19780 Filed 9–15–17; 8:45 am]

BILLING CODE 6051–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2017–301]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* September 21, 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).:* CP2017–301; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 7 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* September 11, 2017; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Curtis E. Kidd; *Comments Due:* September 21, 2017.

This notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2017–19695 Filed 9–15–17; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81580; File No. SR–NYSEArca–2017–101]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 6.87–O and Rule 6.65–O

September 12, 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 September 1, 2017, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 6.87–O (Nullification and Adjustment of Options Transactions including Obvious Errors) and Rule 6.65–O 953NY [sic] (Trading Halts and Suspensions). The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend Rule 6.87–O, relating to the adjustment and nullification of erroneous transactions, and Rule 6.65–O, regarding trading halts and suspensions. The Exchange's proposal is based on that of Bats BZX (''BATS''), which the Commission approved on July 6, 2017, and those that the other options exchanges intend to file.[4]

Background

The Exchange and other options exchanges adopted a harmonized rule related to the adjustment and nullification of erroneous options transactions, including a specific provision related to coordination in connection with large-scale events involving erroneous options transactions.[5] The Exchange believes that the changes the options exchanges implemented with the harmonized rule have led to increased transparency and finality with respect to the adjustment and nullification of erroneous options transactions. As part of the initial initiative, however, the Exchange and other options exchanges deferred a few specific matters for further discussion.[6] Specifically, as described in the Initial Filing, the Exchange and all other options exchanges have been working to further improve the review of potentially erroneous transactions as well as their subsequent adjustment by creating an objective and universal way to determine Theoretical Price in the

[4] *See* Securities Exchange Act Release Nos. 81084 (July 6, 2017), 82 FR 32216 (July 12, 2017) (''BATS Approval Order''); 80709 (May 17, 2017), 82 FR 23684 (May 23, 2017) (''Notice of BATS Filing'') (SR–BatsBZX–2017–35). *See also* Securities Exchange Act Release No. 81348 (August 8, 2017), 82 FR 37910 (August 14, 2017), (SR–BX–2017–038) (immediately effective filing based on BATS Approval Order).

[5] *See* Securities Exchange Act Release No. 74921 (May 8, 2015), 80 FR 27747 (May 14, 2015) (SR–NYSEArca–2015–41) (the ''Imitial Filing'').

[6] For example, the Exchange, along with other options exchanges that offer complex orders on their options platforms, recently filed proposals related to rules for handling the adjustment and nullification of erroneous complex order transactions, which proposals were approved by the Commission or filed on an immediately effective basis. *See* Securities Exchange Act Release Nos. 80040 (February 14, 2017), 82 FR 11248 (February 21, 2017) (granting approval of CBOE proposal related to the nullification and adjustment of complex orders) (SR–CBOE–2016–088); 80496 (April 20, 2017), 82 FR 19282 (April 26, 2017) (notice of filing and immediate effectiveness of Exchange proposal related to the nullification and adjustment of complex orders) (SR–NYSEArca–2017–42).

event a reliable NBBO is not available. Because this initiative required additional exchange and industry discussion as well as additional time for development and implementation, the Exchange and the other options exchanges determined to proceed with the Initial Filing and to undergo an effort to complete any additional improvements to the applicable rule. In this filing, the Exchange proposes to adopt procedures that will lead to a more objective and uniform way to determine Theoretical Price in the event a reliable NBBO is not available. In addition to this change, the Exchange has proposed additional minor changes to its rules.

Calculation of Theoretical Price Using a Third Party Provider

Under the harmonized rule, when reviewing a transaction as potentially erroneous, the Exchange needs to first determine the ''Theoretical Price'' of the option, *i.e.,* the Exchange's estimate of the correct market price for the option. Pursuant to Rule 6.87 (referred to herein simply as Rules 6.87), if the applicable option series is traded on at least one other options exchange, then the Theoretical Price of an option series is the last national best bid (''NBB'') just prior to the trade in question with respect to an erroneous sell transaction or the last national best offer (''NBO'') just prior to the trade in question with respect to an erroneous buy transaction unless one of the exceptions described below exists. Thus, whenever the Exchange has a reliable NBB or NBO, as applicable, just prior to the transaction, the Exchange uses this NBB or NBO as the Theoretical Price.

The Rule also contains various provisions governing specific situations where the NBB or NBO is not available or may not be reliable. Specifically, the Rule identifies situations in which there are no quotes or no valid quotes for comparison purposes, when the national best bid or offer (''NBBO'') is determined to be too wide to be reliable, and at the open of trading on each trading day. In each of these circumstances because the NBB or NBO is not available or is deemed to be unreliable, the Exchange determines the Theoretical Price. Under the current Rule, when determining Theoretical Price, Exchange personnel generally consult and refer to data such as the prices of related series, especially the closest strikes in the option in question. Exchange personnel may also take into account the price of the underlying security and the volatility characteristics of the option as well as historical pricing of the option and/or similar options. Although the Rule is administered by experienced personnel and the Exchange believes the process is currently appropriate, the Exchange recognizes that it is also subjective and could lead to disparate results for a transaction that spans multiple options exchanges.

The Exchange proposes new Commentary .06 to specify how the Exchange will determine Theoretical Price when required by sub-paragraphs (b)(1)–(3) of the Rule (*i.e.,* at the open, when there are no valid quotes or when there is a wide quote). In particular, the Exchange has been working with other options exchanges to identify and select a reliable third party vendor (''TP Provider'') that would provide the Theoretical Price to the Exchange whenever one or more transactions is under review pursuant to Rule 6.87 and the NBBO is unavailable or deemed unreliable pursuant to Rule 6.87(b). The Exchange and other options exchanges have selected CBOE Livevol, LLC (''Livevol'') as the TP Provider, as described below.

Pursuant to proposed Commentary .06, when the Exchange must determine Theoretical Price pursuant to the sub-paragraphs (b)(1)–(3) of the Rule, the Exchange will request the Theoretical Price from the third party vendor to which the Exchange and all other options exchanges have subscribed. Thus, as set forth in this proposed language, Theoretical Price would be provided to the Exchange by the TP Provider on request and not through a streaming data feed.[7] This proposed language would also make clear that the Exchange and all other options exchanges will use the same TP Provider. As noted above, the proposed TP Provider selected by the Exchange and other options exchanges is Livevol. The Exchange proposes to establish this selection in proposed paragraph (d) to Commentary .06. As such, the Exchange would file a rule proposal and would provide notice to the options industry of any proposed change to the TP Provider. The Exchange and other options exchanges have selected Livevol as the proposed TP Provider after diligence into various alternatives. Livevol has, since 2009, been the options industry leader in providing equity and index options market data and analytics services.[8] The Exchange believes that Livevol has established itself within the options industry as a trusted provider of such services and notes that it and all other options exchanges already subscribe to various Livevol services. In connection with this proposal, Livevol will develop a new tool based on its existing technology and services that will supply Theoretical Price to the Exchange and other options exchanges upon request. The Theoretical Price tool will leverage current market data and surrounding strikes to assist in a relative value pricing approach to generating a Theoretical Price. When relative value methods are incapable of generating a valid Theoretical Price, the Theoretical Price tool will utilize historical trade and quote data to calculate Theoretical Price.

Because the purpose of the proposal is to move away from a subjective determination by Exchange personnel when the NBBO is unavailable or unreliable, the Exchange intends to use the Theoretical Price provided by the TP Provider in all such circumstances. However, the Exchange believes it is necessary to retain the ability to contact the TP Provider if it believes that the Theoretical Price provided is fundamentally incorrect and to determine the Theoretical Price in the limited circumstance of a systems issue experienced by the TP Provider, as described below.

As proposed, to the extent an Official[9] of the Exchange believes that the Theoretical Price provided by the TP Provider is fundamentally incorrect and cannot be used consistent with the maintenance of a fair and orderly market, the Official shall contact the TP Provider to notify the TP Provider of the reason the Official believes such Theoretical Price is inaccurate and to request a review and correction of the calculated Theoretical Price. For example, if an Official received from the TP Provider a Theoretical Price of $80 in a series that the Official might expect to be instead in the range of $8 to $10 because of a recent corporate action in the underlying, the Official would request that the TP Provider review and confirm its calculation and determine whether it had appropriately accounted for the corporate action. In order to ensure that other options exchanges that may potentially be relying on the same Theoretical Price that the Official believes to be incorrect, the Exchange

[7] Though the Exchange and other options exchanges considered a streaming feed, it was determined that it would be more feasible to develop and implement an on demand service and that such a service would satisfy the goals of the initiative.

[8] The Exchange notes that in 2015, Livevol was acquired by CBOE Holdings, Inc., the ultimate parent company of the Chicago Board Options Exchange (''CBOE'') and C2 Options Exchange (''C2'').

[9] For purposes of the Rule, an Official is an Officer of the Exchange or such other employee designee of the Exchange that is trained in the application of Rule 6.87.

also proposes to promptly provide notice to other options exchanges that the TP Provider has been contacted to review and correct the calculated Theoretical Price at issue and to include a brief explanation of the reason for the request.[10] Although not directly addressed by the proposed rule, the Exchange expects that all other options exchanges once in receipt of this notification would await the determination of the TP Provider and would use the corrected price as soon as it is available. The Exchange further notes that it expects the TP Provider to cooperate with, but to be independent of, the Exchange and other options exchanges.[11]

The Exchange believes that the proposal to allow an Exchange Official to contact the TP Provider if he or she believes the provided Theoretical Price is fundamentally incorrect is necessary, particularly because the Exchange and other options exchanges will be using the new process for the first time.[12] Although the exchanges have conducted thorough diligence with respect to Livevol as the selected TP Provider and would do so with any potential replacement TP Provider, the Exchange is concerned that certain scenarios could arise where the Theoretical Price generated by the TP Provider does not take into account relevant factors and would result in an unfair result for market participants involved in a transaction. The Exchange notes that if such situations do indeed arise, to the extent practicable the Exchange would also work with the TP Provider and other options exchanges to improve the TP Provider's calculation of Theoretical Price in future situations. For instance, if the Exchange determines that a particular type of corporate action is not being appropriately captured by the TP Provider when such provider is generating Theoretical Price, while the Exchange believes that it needs the ability to request a review and correction of the Theoretical Price in connection with a specific review in order to provide a timely decision to market participants, the Exchange would share information regarding the specific situation with the TP Provider and other options exchanges in an effort to improve the Theoretical Price service for future use. The Exchange notes that it does not anticipate needing to rely on this provision frequently, if at all, but believes the provision is necessary nonetheless to best prepare for all potential circumstances.

Pursuant to proposed paragraph (c) to Commentary .06, an Official of the Exchange may determine the Theoretical Price if the TP Provider has experienced a systems issue that has rendered its services unavailable to accurately calculate Theoretical Price and such issue cannot be corrected in a timely manner. The Exchange notes that it does not anticipate needing to rely on this provision frequently, if at all, but believes the provision is necessary nonetheless to best prepare for all potential circumstances. Further, consistent with existing text in Rule 6.87(e)(4), the Exchange has not proposed a specific time by which the service must be available in order to be considered timely.[13] The Exchange expects that it would await the TP Provider's services becoming available again so long as the Exchange was able to obtain information regarding the issue and the TP Provider had a reasonable expectation of being able to resume normal operations within the next several hours based on communications with the TP Provider. More specifically with respect to Livevol, Livevol has business continuity and disaster recovery procedures that will help to ensure that the Theoretical Price tool remains available or, in the event of an outage, that service is restored in a timely manner. The Exchange also notes that if a wide-scale event occurred, even if such event did not qualify as a ''Significant Market Event'' pursuant to Rule 6.87(e), and the TP Provider was unavailable or otherwise experiencing difficulty, the Exchange believes that it and other options exchanges would seek to coordinate to the extent possible. In particular, the Exchange and other options exchanges now have a process, administered by the Options Clearing Corporation, to invoke a discussion amongst all options exchanges in the event of any widespread or significant market events. The Exchange believes that this process could be used if there were an issue with the TP Provider.

The Exchange also proposes language in paragraph (d) of Commentary .06 to Rule 6.87 to disclaim the liability of the Exchange and the TP Provider in connection with the proposed rule, the TP Provider's calculation of Theoretical Price, and the Exchange's use of such Theoretical Price. Specifically, the proposed rule would state that neither the Exchange, the TP Provider, nor any affiliate of the TP Provider (the TP Provider and its affiliates are referred to collectively as the ''TP Provider''), makes any warranty, express or implied, as to the results to be obtained by any person or entity from the use of the TP Provider pursuant to Commentary .06. The proposed rule would further state that the TP Provider does not guarantee the accuracy or completeness of the calculated Theoretical Price and that the TP Provider disclaims all warranties of merchantability or fitness for a particular purpose or use with respect to such Theoretical Price. Finally, the proposed rule would state that neither the Exchange nor the TP Provider shall have any liability for any damages, claims, losses (including any indirect or consequential losses), expenses, or delays, whether direct or indirect, foreseen or unforeseen, suffered by any person arising out of any circumstance or occurrence relating to the use of such Theoretical Price or arising out of any errors or delays in calculating such Theoretical Price. This proposed language is modeled after existing language in Exchange Rules regarding ''reporting authorities'' that calculate indices.[14]

In connection with the proposed change described above, the Exchange proposes to modify Rule 6.87 to state that the Exchange will rely on paragraph (b) and Commentary .06 when determining Theoretical Price.

No Valid Quotes—Market Participant Quoting on Multiple Exchanges

As described above, one of the times where the NBB or NBO is deemed to be unreliable for purposes of Theoretical Price is when there are no quotes or no valid quotes for the affected series. In addition to when there are no quotes, the Exchange does not consider the following to be valid quotes: (i) All quotes in the applicable option series published at a time where the last NBB is higher than the last NBO in such

[10] *See* proposed paragraph (b) to Commentary .06.

[11] The Exchange expects any TP Provider selected by the Exchange and other options exchanges to act independently in its determination and calculation of Theoretical Price. With respect to Livevol specifically, the Exchange again notes that Livevol is a subsidiary of CBOE Holdings, Inc., which is also the ultimate parent company of multiple options exchanges. The Exchange expects Livevol to calculate Theoretical Price independent of its affiliated exchanges in the same way it will calculate Theoretical Price independent of non-affiliated exchanges.

[12] To the extent the TP Provider has been contacted by an Official of the Exchange, reviews the Theoretical Price provided but disagrees that there has been any error, then the Exchange would be bound to use the Theoretical Price provided by the TP Provider.

[13] In the context of a Significant Market Event, the Exchange may determine, ''in consultation with other options exchanges . . . that timely adjustment is not feasible due to the extraordinary nature of the situation.'' *See* Rule 6.87(e)(4).

[14] *See, e.g.,* Rule 5.22 (Disclaimers), which relates to index options potentially listed and traded on the Exchange and disclaims liability for a reporting authority and their affiliates.

series (a ''crossed market''); (ii) quotes published by the Exchange that were submitted by either party to the transaction in question; and (iii) quotes published by another options exchange against which the Exchange has declared self-help. In recognition of today's market structure where certain participants actively provide liquidity on multiple exchanges simultaneously, the Exchange proposes to add a category of invalid quotes. Specifically, in order to avoid a situation where a market participant has established the market at an erroneous price on multiple exchanges, the Exchange proposes to consider as invalid the quotes in a series published by another options exchange if either party to the transaction in question submitted the quotes in the series representing such options exchange's best bid or offer. Thus, similar to being able to ignore for purposes of the Rule the quotes published by the Exchange if submitted by either party to the transaction in question, the Exchange would be able to ignore for purposes of the rule quotations on other options exchanges by that same market participant.

In order to continue to apply the Rule in a timely and organized fashion, however, the Exchange proposes to initially limit the scope of this proposed provision in two ways in new paragraph (C) to Rule 6.87(b)(2).[15] First, because the process will take considerable coordination with other options exchanges to confirm that the quotations in question on an away options exchange were indeed submitted by a party to a transaction on the Exchange, the Exchange proposes to limit this provision to apply to up to twenty-five (25) total options series (*i.e.,* whether such series all relate to the same underlying security or multiple underlying securities). Second, the Exchange proposes to require the party that believes it established the best bid or offer on one or more other options exchanges to identify to the Exchange the quotes which were submitted by such party and published by other options exchanges. In other words, as proposed, the burden will be on the party seeking that the Exchange disregard their quotations on other options exchanges to identify such quotations. In turn, the Exchange will verify with such other options exchanges that such quotations were indeed submitted by such party.[16]

Below are examples of both the current rule and the rule as proposed to be amended.

Example 1—Current Rule, Member Erroneously Quotes on One Exchange

Assumptions

For purposes of this example, assume the following:

- A Member acting as a Market Maker on the Exchange (''Market Maker A'') is quoting in twenty series of options underlying security ABCD on the Exchange (and only the Exchange).
- Market Maker A makes an error in calculating the market for options on ABCD, and publishes quotes in all twenty series to buy options at $1.00 and to sell options at $1.05.
- In fact, options on ABCD in these series are nearly worthless and no other market participant is quoting in such series.
- Therefore, the NBBO in the twenty series at issue is $1.00 × $1.05 (with the Exchange representing the NBBO based on Market Maker A's quotes).
- Assume Member A immediately enters sell orders and executes against Market Maker A's quotes at $1.00.
- Assume Market Maker A submits to the Exchange a timely request for review of the trades with Member A as potentially erroneous transactions to buy.

Result

- Based on the Exchange's current rules, the Exchange would identify Market Maker A as a participant to the trades at issue and would consider Market Maker A's quotations invalid pursuant to Rule 6.87(b)(2).
- As there were no other valid quotes to use as a reference price, the Exchange would then determine Theoretical Price.
- Assume the Exchange determines a Theoretical Price of $0.05.
  - The execution price of $1.00 exceeds the $0.25 minimum amount set forth in the Exchange's table to determine whether an obvious error has occurred (*i.e.,* $0.05 + $0.25 = $0.30) so any execution at or above this price is an obvious error.
  - Accordingly, the executions in all series would be adjusted by the Exchange to executions at $0.20 per contract (Theoretical Price of $0.05 plus $0.15) to the extent the incoming orders submitted by Member A were non-Customer orders.
  - The executions in all series would be nullified to the extent the incoming orders submitted by Member A were Customer orders.

Example 2—Current Rule, Member Erroneously Quotes on Multiple Exchanges

Assumptions

For purposes of this example, assume the following:

- A Member acting as a Market Maker on the Exchange (''Market Maker A'') is quoting in twenty series of options underlying security ABCD on the Exchange and on a second exchange (''Away Exchange'').
- Market Maker A makes an error in calculating the market for options on ABCD, and publishes quotes on both the Exchange and the Away Exchange in all twenty series to buy options at $1.00 and to sell options at $1.05.
- In fact, options on ABCD in these series are nearly worthless and no other market participant is quoting in such series.
- Therefore, the NBBO in the twenty series at issue is $1.00 × $1.05 (with the Exchange and the Away Exchange representing the NBBO based on Market Maker A's quotes).
- Assume Member A immediately enters sell orders and executes against Market Maker A's quotes at $1.00.
- Assume Market Maker A submits to the Exchange and to the Away Exchange timely requests for review of the trades with Member A as potentially erroneous transactions to buy.

Result

- Based on the Exchange's current rules, the Exchange would identify Market Maker A as a participant to the trades at issue and would consider Market Maker A's quotations on the Exchange invalid pursuant to Rule 6.87(b)(2). The Exchange, however, would view the Away Exchange's quotations as valid, and would thus determine Theoretical Price to be $1.05 (*i.e.,* the NBO in the case of a potentially erroneous buy transaction).
- The execution price of $1.00 does not exceed the $0.25 minimum amount set forth in the Exchange's table to determine whether an obvious error has occurred (*i.e.,* $1.05 + $0.25 = $1.30) so any execution at or above this price is an obvious error.
- The transactions on the Exchange would not be nullified or adjusted.
- As the Exchange and all other options exchanges have identical rules with respect to the process described above, the transactions on the Away Exchange would not be nullified or adjusted.

[15] In connection with proposed change, the Exchange proposes to re-format Rule 6.87(b)(2) to include sub-paragraphs (A)–(D), inclusive of the new rule in proposed Rule 6.87(b)(2)(C).

[16] The Exchange notes that the proposed text of 6.87(b)(2)(C) differs slightly from BATS Rule 20.6(b)(2)(C), even though the substance of the propsed rule is the same. The Exchange believes its proposed rule text is easier to comprehend.

Example 3—Proposed Rule, Member Erroneously Quotes on Multiple Exchanges [17]

Assumptions

- For purposes of this example, assume the following:
- A Member acting as a Market Maker on the Exchange (''Market Maker A'') is quoting in twenty series of options underlying security ABCD on the Exchange and on a second exchange (''Away Exchange'').[18]
- Market Maker A makes an error in calculating the market for options on ABCD, and publishes quotes on both the Exchange and the Away Exchange in all twenty series to buy options at $1.00 and to sell options at $1.05.
- In fact, options on ABCD in these series are nearly worthless and no other market participant is quoting in such series.
- Therefore, the NBBO in the twenty series at issue is $1.00 × $1.05 (with the Exchange and the Away Exchange representing the NBBO based on Market Maker A's quotes).
- Assume Member A immediately enters sell orders and executes against Market Maker A's quotes at $1.00.
- Assume Market Maker A submits to the Exchange and to the Away Exchange timely requests for review of the trades with Member A as potentially erroneous transactions to buy. At the time of submitting the requests for review to the Exchange and the Away Exchange, Market Maker A identifies to the Exchange the quotes on the Away Exchange as quotes also represented by Market Maker A (and to the Away Exchange, the quotes on the Exchange as quotes also represented by Market Maker A).

Result

- Based on the proposed rules, the Exchange would identify Market Maker A as a participant to the trades at issue and would consider Market Maker A's quotations on the Exchange invalid pursuant to Rule 6.87(b)(2).
- The Exchange and the Away Exchange would also coordinate to confirm that the quotations identified by Market Maker A on the other exchange were indeed Market Maker A's quotations. Once confirmed, each of the Exchange and the Away Exchange would also consider invalid the quotations published on the other exchange.
- As there were no other valid quotes to use as a reference price, the Exchange would then determine Theoretical Price.
- Assume the Exchange determines a Theoretical Price of $0.05.
  - The execution price of $1.00 exceeds the $0.25 minimum amount set forth in the Exchange's table to determine whether an obvious error has occurred (*i.e.,* $0.05 + $0.25 = $0.30) so any execution at or above this price is an obvious error.
  - Accordingly, the executions in all series would be adjusted by the Exchange to executions at $0.20 per contract (Theoretical Price of $0.05 plus $0.15) to the extent the incoming orders submitted by Member A were non-Customer orders.
  - The executions in all series would be nullified to the extent the incoming orders submitted by Member A were Customer orders.
- As the Exchange and all other options exchanges would have identical rules with respect to the process described above, as other options exchanges intend to adopt the same rule if the proposed rule is approved, the transactions on the Away Exchange would also be nullified or adjusted as set forth above.
- If this example was instead modified such that Market Maker A was quoting in 200 series rather than 20, the Exchange notes that Market Maker A could only request that the Exchange consider as invalid their quotations in 25 of those series on other exchanges. As noted above, the Exchange has proposed to limit the proposed rule to 25 series in order to continue to process requests for review in a timely and organized fashion in order to provide certainty to market participants. This is due to the amount of coordination that will be necessary in such a scenario to confirm that the quotations in question on an away options exchange were indeed submitted by a party to a transaction on the Exchange.

Obvious Error Panel, Appeals—Clean-Up change

Rule 6.87(k)(1)(B) describes the procedure for appealing decisions relating to obvious errors. The current rule provides, in relevant part, that a ''request for review on appeal must be made via facsimile or email within thirty (30) minutes after the party making the appeal is given notification of the initial determination being appealed.'' The Exchange proposes to modify this rule to remove reference to ''facsimile,'' and allow that requests for appeal may only be made via email. The Exchanges believes this proposed change would update the rule to reflect current technology and add transparency to the rule text.

Trading Halts and Suspensions—Clarifying Change to Rule 6.65–O

Rule 6.65–O describes the Exchange's authority to declare trading halts in one or more options traded on the Exchange (referred herein simply to as Rule 6.65). Currently, Commentary .04 to Rule 6.65 states that the Exchange shall nullify any transaction that occurs during a trading halt in the affected option on the Exchange. The Exchange proposes to add rule text providing that, with respect to equity options (including options overlaying Exchange Traded Funds (''ETFs''), that it shall nullify any transaction that occurs during a regulatory halt as declared by the primary listing market for the underlying security. Current Commentary .03 to Rule 6.65 defines a Regulatory Halt as one ''initiated by a regulatory authority in the primary market.'' The Exchange believes this change is necessary to distinguish a declared regulatory halt, where the underlying security should not be actively trading on any venue, from an operational issue on the primary listing exchange where the security may continue to trade on other trading venues. This proposed change would likewise be consistent with the rule of other options exchanges.[19]

Implementation

The Exchange will announce the operative date by Trader Update. The Exchange proposes to delay the operative date of this proposal to a date within ninety (90) days after the BATS Approval Order, dated July 6, 2017. The Exchange will announce the operative date in a Trader Update.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[20] in general, and furthers the objectives of Section 6(b)(5) of the Act,[21] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in

[17] The Exchange notes that its proposed rule will not impact the proposed handling of a request for review where a market participant is quoting only on the Exchange, thus, the Exchange has not included a separate example for such a fact-pattern.

[18] The Exchange notes that the proposed rule would operate the same if Market Maker A was quoting on more than two exchanges. The Exchange has limited the example to two exchanges for simplicity.

[19] *See supra* note 4.

[20] 15 U.S.C. 78f(b).

[21] 15 U.S.C. 78f(b)(5).

general, to protect investors and the public interest.

As described above, the Exchange and other options exchanges are seeking to further modify their harmonized rules related to the adjustment and nullification of erroneous options transactions. The Exchange believes that the proposal to utilize a TP Provider in the event the NBBO is unavailable or unreliable will provide greater transparency and clarity with respect to the adjustment and nullification of erroneous options transactions. Particularly, the proposed changes seek to achieve consistent results for participants across U.S. options exchanges while maintaining a fair and orderly market, protecting investors and protecting the public interest. Thus, the Exchange believes that the proposal is consistent with Section 6(b)(5) of the Act [22] in that the proposed rule will foster cooperation and coordination with persons engaged in regulating and facilitating transactions.

The Exchange again reiterates that it has retained the standard of the current rule for most reviews of options transactions pursuant to Rule 6.87, which is to rely on the NBBO to determine Theoretical Price if such NBBO can reasonably be relied upon. The proposal to use a TP Provider when the NBBO is unavailable or unreliable is consistent with Section 6(b)(5) of the Act [23] in that the proposed rule will foster cooperation and coordination with persons engaged in regulating and facilitating transactions by further reducing the possibility of disparate results between options exchanges and increasing the objectivity of the application of Rule 6.87. Further, the Exchange believes that the proposed rule is transparent with respect to the limited circumstances under which the Exchange will request a review and correction of Theoretical Price from the TP Provider, and has sought to limit such circumstances as much as possible. The Exchange notes that under the current Rule, Exchange personnel are required to determine Theoretical Price in certain circumstances and yet rarely do so because such circumstances have already been significantly limited under the harmonized rule (for example, because the wide quote provision of the harmonized rule only applies if the quote was narrower and then gapped but does not apply if the quote had been persistently wide). Thus, the Exchange believes it will need to request Theoretical Price from the TP Provider only in very rare circumstances and in turn, the Exchange anticipates that the need to contact the TP Provider for additional review of the Theoretical Price provided by the TP Provider will be even rarer. Similarly, the Exchange believes it is unlikely that an Exchange Official will ever be required to determine Theoretical Price, as such circumstance would only be in the event of a systems issue that has rendered the TP Provider's services unavailable and such issue cannot be corrected in a timely manner.

The Exchange also believes its proposal to adopt language in paragraph (d) of Commentary .06 to Rule 6.87 to disclaim the liability of the Exchange and the TP Provider in connection with the proposed rule, the TP Provider's calculation of Theoretical Price, and the Exchange's use of such Theoretical Price is consistent with the Act. As noted above, this proposed language is modeled after existing language in Exchange Rules regarding ''reporting authorities'' that calculate indices,[24] and is consistent with Section 6(b)(5) of the Act [25] in that the proposed rule will foster cooperation and coordination with persons engaged in regulating and facilitating transactions.

As described above, the Exchange proposes a modification to the valid quotes provision to also exclude quotes in a series published by another options exchange if either party to the transaction in question submitted the orders or quotes in the series representing such options exchange's best bid or offer. The Exchange believes this proposal is consistent with Section 6(b)(5) of the Act [26] because the application of the rule will foster cooperation and coordination with persons engaged in regulating and facilitating transactions by allowing the Exchange to coordinate with other options exchanges to determine whether a market participant that is party to a potentially erroneous transaction on the Exchange established the market in an option on other options exchanges; to the extent this can be established, the Exchange believes such participant's quotes should be excluded in the same way such quotes are excluded on the Exchange. The Exchange also believes it is reasonable to limit the scope of this provision to twenty-five (25) series and to require the party that believes it established the best bid or offer on one or more other options exchanges to identify to the Exchange the quotes which were submitted by that party and published by other options exchanges. The Exchange believes these limitations are consistent with Section 6(b)(5) of the Act [27] because they will ensure that the Exchange is able to continue to apply the Rule in a timely and organized fashion, thus fostering cooperation and coordination with persons engaged in regulating and facilitating transactions and also removing impediments to and perfecting the mechanism of a free and open market and a national market system.

The proposed change to Rule 6.87(k)(1)(B), to remove reference to sending requests for appeal via facsimile, would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed change would update the rule to reflect current technology. This proposed change would also protect investors and the general public because it would add transparency to the rule text.

Finally, with respect to the proposed modification to the Exchange's trading halt rule, Rule 6.65, the Exchange believes that this proposal is consistent with Section 6(b)(5) of the Act [28] because it specifically provides for nullification where a trading halt exists with respect to an underlying security across the industry (*i.e.,* a regulatory halt) as distinguished from a situation where the primary exchange has experienced a technical issue but the underlying security continues to trade on other equities platforms. The Exchange notes that a similar provision already exists in the rules of certain other options exchanges, and thus, has been found to be consistent with the Act.[29]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change is consistent with Section (b)(8) of the Act [30] in that is does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act as explained below.

Importantly, the Exchange does not believe that the proposal will impose a burden on intermarket competition but rather that it will alleviate any burden on competition because it is the result of a collaborative effort by all options exchanges to further harmonize and improve the process related to the adjustment and nullification of erroneous options transactions. The

[22] 15 U.S.C. 78f(b)(5).

[23] *Id.*

[24] *See supra* note 14.

[25] 15 U.S.C. 78f(b)(5).

[26] *Id.*

[27] *Id.*

[28] *Id.*

[29] *See, e.g.,* BATs Approval Order, *supra* note 4; Interpretation and Policy .07 to CBOE Rule 6.3.

[30] 15 U.S.C. 78f(b)(8).

Exchange does not believe that the rules applicable to such process is an area where options exchanges should compete, but rather, that all options exchanges should have consistent rules to the extent possible. Particularly where a market participant trades on several different exchanges and an erroneous trade may occur on multiple markets nearly simultaneously, the Exchange believes that a participant should have a consistent experience with respect to the nullification or adjustment of transactions. To that end, the selection and implementation of a TP Provider utilized by all options exchanges will further reduce the possibility that participants with potentially erroneous transactions that span multiple options exchanges are handled differently on such exchanges. Similarly, the proposed ability to consider quotations invalid on another options exchange if ultimately originating from a party to a potentially erroneous transaction on the Exchange represents a proposal intended to further foster cooperation by the options exchanges with respect to market events. The Exchange understands that all other options exchanges either have or intend to file proposals that are substantially similar to this proposal.

The Exchange does not believe that the proposed rule change imposes a burden on intramarket competition because the proposed provisions apply to all market participants equally.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule 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 [31] and subparagraph (f)(6) of Rule 19b–4 thereunder.[32]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2017–101 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–2017–101. 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–NYSEArca–2017–101, and should be submitted on or before October 10, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Eduardo A. Aleman,

Assistant Secretary.

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[31] 15 U.S.C. 78s(b)(3)(A)(iii).

[32] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[33] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81579; File No. SR–NASDAQ–2017–088]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change To Amend Rule 4703(a) To Allow Members To Designate When an Order With a RTFY or SCAN Routing Order Attribute Will Be Activated

September 12, 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 August 30, 2017, The NASDAQ Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 4703(a) to allow members to designate when an Order with a RTFY or SCAN routing Order Attribute will be activated.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend Rule 4703(a) to allow members to designate when an Order with a RTFY or SCAN routing Order Attribute [3] will be activated. RTFY is a routing option available for an order that qualifies as a Designated Retail Order under which orders check the System for available shares only if so instructed by the entering firm and are thereafter routed to destinations on the System routing table.[4] If shares remain unexecuted after routing, they are posted to the book.[5] Once on the book, should the order subsequently be locked or crossed by another market center, the System will not route the order to the locking or crossing market center.[6] RTFY is designed to allow orders to participate in the opening, reopening and closing process of the primary listing market for a security. SCAN is a routing option under which orders check the System for available shares and simultaneously route the remaining shares to destinations on the System routing table. If shares remain un-executed after routing, they are posted on the book.[7] Once on the book, should the order subsequently be locked or crossed by another market center, the System will not route the order to the locking or crossing market center.[8]

Rule 4703 provides the various Order Attributes that may be assigned to Orders entered into the System. All Orders have a Time-in-Force,[9] during which the Order is active. During Pre-Market Hours,[10] the Exchange has historically provided a member two options concerning when an Order with a RTFY or SCAN Order Attribute may become active—upon entry or at single designated time, which is currently 8:00 a.m. ET. Orders with a RTFY or SCAN Order Attribute entered prior to 8:00 a.m. ET that are not designated to activate immediately are held by the System until 8:00 a.m. ET, at which time they become active. During Market Hours [11] and Post-Market Hours,[12] Orders with a RTFY or SCAN Order Attribute may only become active upon entry. The Exchange is proposing to provide members with greater control over their Orders with RTFY and SCAN Order Attributes by allowing members to designate when such Orders become active at any point during the trading day. Accordingly, the Exchange is amending Rule 4703(a) and paragraph (7) thereunder to make it clear that Orders with a RTFY or SCAN Order Attribute may either be active upon entry or at a time designated by the member. The Exchange is also clarifying under Rule 4703(a)(7) that Orders with a RTFY or SCAN Order Attribute may be designated to activate at any time during System Hours, which encompasses the full trading day on Nasdaq, on the same day.[13] Thus, an Order with a RTFY or SCAN Order Attribute not designated to become active immediately may only be designated to activate during System Hours of the day on which the Order was entered.

The Exchange will implement the proposed changes upon approval by the Commission.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Section 6(b)(5) of the Act,[15] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by providing members with greater control over their Orders with a RTFY or SCAN Order Attribute and more flexibility to carry out their investment strategies. Currently, market participants are limited by the time at which their RTFY and SCAN Orders may activate—either upon entry or at 8:00 a.m. ET. The proposed rule change removes this limitation by allowing a member to designate the precise time at which it wishes the Order to become active. The Exchange notes that a member may currently replicate what is being proposed by entering an Order with a RTFY or SCAN Order Attribute precisely at the time that they wish it to become active during the trading day. The proposed change merely frees members from having to time their Order entry to achieve their investment goals. Currently, members may cancel an Order with a RTFY or SCAN Order Attribute at any time before it activates at 8 a.m. ET. Under the proposed change, members may cancel their inactive Orders with a RTFY or SCAN Order Attribute at any time, thus allowing them to react to market conditions that may cause them to violate their obligation of best execution to their customers should the Order activate and execute. Similarly, members may cancel their active Orders with RTFY or SCAN and enter new RTFY or SCAN Orders to activate at a time that the members believe will better satisfy their obligation of best execution.

With this change, and as is currently the case, all Nasdaq members may use the SCAN Order Attribute, and all Nasdaq members may use the RTFY Order Attribute if they meet its

[3] The term ''Order'' means an instruction to trade a specified number of shares in a specified System Security submitted to the Nasdaq Market Center by a Participant. An ''Order Type'' is a standardized set of instructions associated with an Order that define how it will behave with respect to pricing, execution, and/or posting to the Nasdaq Book when submitted to Nasdaq. An ''Order Attribute'' is a further set of variable instructions that may be associated with an Order to further define how it will behave with respect to pricing, execution, and/or posting to the Nasdaq Book when submitted to Nasdaq. The available Order Types and Order Attributes, and the Order Attributes that may be associated with particular Order Types, are described in Rules 4702 and 4703. One or more Order Attributes may be assigned to a single Order; provided, however, that if the use of multiple Order Attributes would provide contradictory instructions to an Order, the System will reject the Order or remove non-conforming Order Attributes. *See* Rule 4701(e).

[4] *See* Rule 4758(a)(1)(A)(v)b.

[5] *Id.*

[6] *Id.*

[7] *See* Rule 4758(a)(1)(A)(iv).

[8] *Id.*

[9] *See* Rule 4703(a).

[10] The term ''Pre-Market Hours'' means the period of time beginning at 4:00 a.m. ET and ending immediately prior to the commencement of Market Hours. The term ''Market Hours'' means the period of time beginning at 9:30 a.m. ET and ending at 4:00 p.m. ET (or such earlier time as may be designated by Nasdaq on a day when Nasdaq closes early). The term ''Post-Market Hours'' means the period of time beginning immediately after the end of Market Hours and ending at 8:00 p.m. ET. The term ''System Hours'' means the period of time beginning at 4:00 a.m. ET and ending at 8:00 p.m. ET (or such earlier time as may be designated by Nasdaq on a day when Nasdaq closes early). *See* Rule 4701(g).

[11] *Id.*

[12] *Id.*

[13] *Id.*

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

requirements.[16] Thus, the proposed change will benefit all members that may use, or are eligible to use, SCAN or RTFY Order Attributes by removing a limitation, and by providing more choice over their market participation.

The Exchange believes that it is equitable to limit the proposed change to RTFY or SCAN Orders because of the nature of the members that use these Order types with the current order activation delay. Currently, members that enter Orders with a RTFY or SCAN Order Attribute with delayed activation tend to represent customers on an agency basis—for example, individual retail investors.[17] The Exchange has become aware that the proposed functionality would ease burdens associated with entering members' agency Orders with these Routing Order Attributes. Consequently, the Exchange is proposing to apply the proposed change to Orders with a RTFY or SCAN Order Attribute. Should the Exchange become aware of other Routing Order Attributes that would also benefit from the flexibility proposed herein, it will consider filing a rule change to expand the time during which such Orders may be designated to become active.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. All Nasdaq members may use the SCAN Order Attribute, and Nasdaq members may use the RTFY Order Attribute if they meet its requirements. Any member that may use, or is eligible to use, Orders with RTFY or SCAN Order Attributes may avail itself of the proposed change. The Exchange believes that the proposed rule change promotes competition by removing a restriction on the use of two Order Attributes, thereby making the process of entering Orders with RTFY and SCAN Order Attributes more efficient and less burdensome on members. Members may not have functionality that allows them to send large numbers of RTFY and SCAN Orders to the Exchange for execution at a designated time. As discussed above, such members must either enter RTFY and SCAN Orders for immediate execution or send them to the Exchange for execution at 8 a.m. ET, relying on the Exchange to queue and activate these Orders at this single time. The Exchange is proposing to allow such queuing and activation done by the Exchange to occur at any time, since the Exchange can better handle the large number of queued Orders received by certain members. Consequently, the proposed change eliminates the burden that affects these members, but will also allow any other member that currently queues RTFY and SCAN Orders for activation at a precise time to use the Exchange for this functionality instead. Should the Exchange find a similar burden placed on members using other Orders, it may extend the proposed activation functionality to other such Orders through rulemaking. The Exchange notes that providing members greater efficiency and control over their trading may make Nasdaq a more attractive venue, which may, in turn, cause other markets to consider similar changes that would remove unnecessary restrictions to the benefit of their members. For these reasons, the Exchange believes that the proposed change will not impose any burden on competition, but rather will reduce burdens, as described above.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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–NASDAQ–2017–088 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2017–088. 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–NASDAQ–2017–088 and should be submitted on or before October 10, 2017.

[16] As set forth in Rule 4758(a)(1)(A), RTFY is a routing option available for an order that qualifies as a Designated Retail Order. Rule 7018 defines a Designated Retail Order as an agency or riskless principal order that meets the criteria of FINRA Rule 5320.03 and that originates from a natural person and is submitted to Nasdaq by a member that designates it pursuant to this rule, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology.

[17] RTFY, by definition, is entered on behalf of retail customers, whereas the Orders with a SCAN Order Attribute are entered on behalf of a wide array of customer, including retail customers. Consequently, although the proposed change will relieve burdens placed on members using both RTFY and SCAN, it will beneficially impact SCAN Orders more so than RTFY Orders.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–19709 Filed 9–15–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81595; File No. SR–MSRB–2017–06]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of a Proposed Rule Change To Amend MSRB Rule G–34, on CUSIP Numbers, New Issue, and Market Information Requirements

September 13, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Exchange Act'' or ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 30, 2017 the Municipal Securities Rulemaking Board (the ''MSRB'' or ''Board'') filed with the Securities and Exchange Commission (the ''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the MSRB. 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 MSRB filed with the Commission a proposed rule change to amend MSRB Rule G–34, on CUSIP numbers, new issue, and market information requirements, (the ''proposed rule change'') to more clearly express in the rule language the MSRB's longstanding interpretation that brokers, dealers and municipal securities dealers (collectively, ''dealers'') when acting as a placement agent in a private placement of municipal securities are subject to the CUSIP number requirements under Rule G–34(a); to expand the application of the rule to cover not only dealer municipal advisors but also non-dealer municipal advisors in competitive sales of municipal securities; and to provide a limited exception from the requirements to apply for CUSIP numbers and to apply for depository eligibility. The MSRB requests that the proposed rule change be effective six months from the date of Commission approval.

The text of the proposed rule change is available on the MSRB's Web site at *www.msrb.org/Rules-and-Interpretations/SEC-Filings/2017-Filings.aspx,* at the MSRB's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the MSRB 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 MSRB 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

Background

CUSIP Number Requirements Applicable to Dealers in Private Placements

In 1983, the SEC approved MSRB Rule G–34, on CUSIP numbers, new issue and market information requirements.[3] The MSRB adopted Rule G–34 to improve efficiencies in the processing and clearance activities of the municipal securities industry, noting that ''if all eligible municipal securities have CUSIP numbers assigned to and printed on them, dealers will be able to place greater reliance on the CUSIP identification of these securities in receiving, delivering, and safekeeping'' them.[4] Rule G–34(a)(i) requires a dealer, whether acting as agent or principal, that acquires an issuer's securities ''for the purpose of distributing such new issue,'' and a dealer acting as a financial advisor in a competitive sale of a new issue, to apply for a CUSIP number for the new issue by a particular point in time in the transaction process. The rule requires, among other things, that underwriters, and financial advisors in competitive sales, make application for a CUSIP number based on eight specified items of information about the new issue.[5] Rule G–34(a)(i)(A)(5) addresses the obligations to update application information that has changed, for example, when the structure of an issuance changes after the CUSIP number has been assigned.

The MSRB has become aware of confusion over the application of Rule G–34(a)(i) among dealers in municipal securities. Some industry participants have questioned whether the obligation to apply for a CUSIP number pursuant to Rule G–34(a)(i) is conditioned on the underwriter's intent to conduct a distribution of the new issue, and therefore, applies only to public offerings and not private placements. The MSRB has publicly stated the view, however, that private placements of municipal securities ''generally *are* eligible for CUSIP numbering and thus are subject to the requirements of [R]ule G–34.'' [6] Similarly, the MSRB has indicated that, unless otherwise noted, ''references to 'underwriter' in the context of Rule G–34 are meant to include placement agents as well as dealers that purchase securities from the issuer as principal,'' [7] and that ''references to 'syndicate and selling group members' in this context are meant to include managers of syndicates as well as sole underwriters or placement agents in non-syndicated offerings.'' [8]

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[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Exchange Act Release No. 19743 (May 9, 1983), 48 FR 21690–01 (May 13, 1983) (SR–MSRB–82–11).

[4] Exchange Act Release No. 18959 (Aug. 13, 1982), 47 FR 36737–03 (Aug. 23, 1982) (SR–MSRB–82–11).

[5] These eight items are contained in current Rule G–34(a)(i)(A)(4)(a) through (h) and were part of CUSIP Service Bureau's original standards for issuing CUSIP numbers. These items are:

(a) Complete name of issue and series designation, if any;

(b) interest rate(s) and maturity date(s) (*provided, however,* that, if the interest rate is not established at the time of application, it may be provided at such time as it becomes available);

(c) dated date;

(d) type of issue (*e.g.,* general obligation, limited tax or revenue);

(e) type of revenue, if the issue is a revenue issue;

(f) details of all redemption provisions;

(g) the name of any company or other person in addition to the issuer obligated, directly or indirectly, with respect to the debt service on all or part of the issue (and, if part of the issue, an indication of which part); and

(h) any distinction(s) in the security or source of payment of the debt service on the issue, and an indication of the part(s) of the issue to which such distinction(s) relate.

[6] CUSIP Number Eligibility Standards and Requirements to Obtain CUSIP Numbers, MSRB Reports, Vol. 12, No. 2 (Jul. 1992) (emphasis in original). In this notice, the MSRB defined ''private placement'' to mean ''any new issue of municipal securities that is 'placed' by a dealer, on an agency basis, with one or more investors.''

[7] *See* Exchange Act Release No. 50773 (Dec. 1, 2004), 69 FR 70731–02 (Dec. 7, 2004) (SR–MSRB–2004–08).

[8] *Id. See also* MSRB Notice 2008–28 (Jun. 27, 2008) (''Rule G–34 defines 'underwriter' very broadly to include a dealer acting as a placement agent . . .''). Note further that in MSRB Notice 2008–23 (May 9, 2008), the MSRB filed a proposed rule change to amend Rule G–34 to require

Continued

Despite the guidance, there have been questions in the industry regarding the application of Rule G–34(a)(i) to private placements of municipal securities, including direct purchase transactions in which a dealer acts as a placement agent.[9] A contributing factor in the issue over the application of Rule G–34(a)(i) to private placements has been the definition of the term ''underwriter'' as it is used in the rule and the reference to ''distributing'' in that definition.[10] Rule G–34(a)(i) defines ''underwriter'' as

each broker, dealer or municipal securities dealer who acquires, whether as principal or agent, a new issue of municipal securities from the issuer of such securities for the purpose of distributing such new issue.

However, other MSRB rules define underwriter by reference to Rule 15c2–12(f)(8) of the Securities Exchange Act of 1934 (''Exchange Act''),[11] which defines an underwriter as

any person who has purchased from an issuer of municipal securities with a view to, or offers or sells for an issuer of municipal securities in connection with, the offering of any municipal security, or participates or has a direct or indirect participation in any such undertaking, or participates or has a participation in the direct or indirect underwriting of any such undertaking; except, that such term shall not include a person whose interest is limited to a commission, concession, or allowance from an underwriter, broker, dealer, or municipal securities dealer not in excess of the usual and customary distributors' or sellers' commission, concession, or allowance.

It is well-understood that this definition of ''underwriter'' includes a dealer in both a public offering and a private placement of a municipal security and is therefore not limited to public distributions. Indeed, when adopting Rule 15c2–12, to ensure private placements of municipal securities were included, the SEC changed its originally proposed definition of ''underwriter'' to refer to ''offerings'' of municipal securities, as opposed to ''distributions'' of municipal securities. The SEC explained the reason for this change as follows:

Some commentators suggested that since the term 'underwriter' in the Proposed Rule was defined as a broker, dealer, or municipal securities dealer who participated in a 'distribution' the Commission had created an implicit private placement exception. Specifically, they noted that persons selling securities in an offering that did not involve a distribution would not be subject to the Rule. The word 'distribution,' which was used in the definition of ''underwriter'' in the Proposed Rule, has been replaced with the term 'offering'. This change is intended to clarify that a broker, dealer or municipal securities dealer may be acting as underwriter, for purposes of the Rule, in connection with a private offering.[12]

CUSIP Number Requirements Applicable to Dealer Municipal Advisors in Competitive Sales

In 1986, the MSRB amended Rule G–34(a) to require a dealer acting as a financial advisor (''dealer municipal advisor'') in a competitive sale of a new issue of municipal securities to apply for CUSIP numbers ''in sufficient time to allow for assignment of a number prior to the date of award.'' [13] This application of the CUSIP number requirement only to dealer municipal advisors is largely the result of Rule G–34 pre-dating the municipal advisor regulatory regime mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act.[14] Financial advisory activities are now generally defined also as municipal advisory activities, though a significant number of the now broadly defined municipal advisors are not dealers (''non-dealer municipal advisor''). As a result, non-dealer municipal advisors are not subject to the CUSIP number application requirements under the current rule, which creates the potential for regulatory inefficiencies where a non-dealer municipal advisor is retained in a competitive sale.

Proposed Amendments to Rule G–34

As set forth in more detail below, the proposed rule change would:

• *Clarify the application of the CUSIP number requirements to dealers in private placements.*

As noted above, the MSRB is aware that, despite guidance issued in this area, there continues to be confusion and inconsistency in the application of the CUSIP number requirements under Rule G–34(a)(i). To alleviate these issues, the proposed rule change would amend paragraph (a)(i)(A) to delete the definition of ''underwriter'' from the rule text and would add a new definition of ''underwriter'' in new section (e) on definitions. Subsection (e)(vii) would cross reference the term ''underwriter'' to the same term as it is defined in Exchange Act Rule 15c2–12(f)(8). This proposed rule change would codify existing interpretations and clarify in the text of the rule that dealers acting as placement agents in private placement transactions, including direct purchases of municipal securities, are subject to the CUSIP-related requirements set forth in Rule G–34(a).

• *Apply the CUSIP number requirements to all municipal advisors advising on a competitive sale of municipal securities.*

Many non-dealer municipal advisors advise issuers with respect to

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underwriter registration and testing with DTCC's New Issue Information Dissemination System (NIIDS). The proposed amendment required all dealers underwriting municipal securities with nine months or greater effective maturity to register to participate in NIIDS and required the dealers to successfully test NIIDS prior to acting as underwriter on a new issue of municipal securities. The MSRB noted that ''underwriter'' in this context was defined ''very broadly to include a dealer acting as a placement agent . . . .''

[9] When a dealer or municipal advisor works with a municipal securities issuer on a financial transaction to raise capital for the issuer, the regulated entity should have reasonably designed policies and procedures in place to make a determination as to whether the transaction involves a municipal security that results in the application of MSRB rules. If the transaction is not an issuance of a municipal security (*e.g.,* a commercial loan), there is no Rule G–34 requirement to apply for a CUSIP number. The draft amendments do not affect the necessity for this determination. The Supreme Court set forth the relevant guidance in *Reves* v. *Ernst & Young, Inc.,* 494 U.S. 56 (1990), and the MSRB has reminded the industry of the requirement to conduct the appropriate analysis in an offering prior to applying for a CUSIP number. *See* MSRB Notice 2011–52 (Sept. 12, 2011) and MSRB Notice 2016–12 (Apr. 4, 2016) (noting that the placement of what might be referred to as a ''bank loan'' may, as a legal matter, involve a municipal security and therefore trigger the application of various federal securities laws, including MSRB rules such as Rule G–34).

[10] The term ''distributing'' as used in the rule is not defined, and, based on general industry perception, market participants might interpret it to mean that the Rule G–34(a)(i) requirements apply only in public offerings and not to private placements. For example, the SEC in its explanatory comment to Rule 144 of the Securities Act of 1933, on persons deemed not to be engaged in a distribution and therefore not underwriters, noted that:

A person satisfying the applicable conditions of the Rule 144 safe harbor is deemed not to be engaged in a distribution of the securities and therefore not an underwriter of the securities for purposes of [Securities Act of 1933] section 2(a)(11). Therefore, such a person is deemed not to be an underwriter when determining whether a sale is eligible for the [Securities Act of 1933] Section 4(1) exemption for 'transactions by any person other than an issuer, underwriter, or dealer.'

Preliminary note to 17 CFR 230.144.

[11] 17 CFR 240.15c2–12(f)(8).

[12] Exchange Act Release No. 26985 (Jun. 28, 1989), 54 FR 28799–01 (Jul. 10, 1989) (Final rule adopting Exchange Act Rule 15c2–12). The MSRB believes its prior interpretations of Rule G–34 regarding the need for CUSIP numbers in private placements of municipal securities are consistent with the SEC's position. *See e.g.,* CUSIP Number Eligibility Standards and Requirements to Obtain CUSIP Numbers, MSRB Reports, Vol. 12, No. 2 (Jul. 1992), Exchange Act Release No. 50773 (Dec. 1, 2004), 69 FR 70731–02 (Dec. 7, 2004) (SR–MSRB–2004–08) and MSRB Notice 2008–28 (Jun. 27, 2008).

[13] Exchange Act Release No. 22730 (Dec. 19, 1985), 50 FR 53046–01 (Dec. 27, 1985) (SR–MSRB–85–20).

[14] Public Law 111–203, H.R. 4173 (2010). The MSRB amended Rule G–34(a) in 1986 to apply the CUSIP requirements to dealers acting as financial advisors in competitive sales of a new issue. Exchange Act Release No. 22730 (Dec. 19, 1985), 50 FR 53046–01 (Dec. 27, 1985) (SR–MSRB–85–20).

competitive sales of new issues of municipal securities. As a result, Rule G–34(a)(i)(A), in its current form, may create inefficiencies in the market where a non-dealer municipal advisor is retained and yet not required to apply for a CUSIP number when advising on a competitive sale of a new issue of municipal securities. This leaves a dealer to make application only after the notification of award is given, potentially delaying related market activity.

Paragraph (a)(i)(A) would be amended to apply the CUSIP number requirements to all municipal advisors (whether dealers or non-dealers) advising on a competitive sale of a new issue of municipal securities. As noted above, in 1986, the MSRB amended Rule G–34(a)(i)(A) to require a dealer ''acting as a financial advisor'' in a competitive sale of a new issue to apply for CUSIP numbers so as to allow assignment of the number prior to the date of award.[15] From a policy standpoint, the market efficiencies served by the 1986 amendments would also be served by these amendments because a dealer no longer would be the first party to begin the process to obtain the CUSIP number after the award in a competitive sale where a non-dealer municipal advisor has been engaged.

Subparagraph (a)(i)(A)(3) clarifies the timeframe within which municipal advisors advising on a competitive sale must make application for a CUSIP number. The current provision indicates that the financial advisor must make application by no later than one business day after dissemination of a notice of sale. The proposed rule change would amend that paragraph to include ''or other such request for bids.'' This additional language would ensure the timing of the application for a CUSIP number in those instances where a municipal advisor seeks bids in a competitive sale of municipal securities using documentation other than a traditional notice of sale.

• *Provide an exception from the CUSIP number and depository eligibility requirements in certain circumstances.*

The MSRB understands that banks in direct purchase transactions are reluctant to engage in certain financing transactions if a CUSIP number is required. While a dealer may determine from its perspective that a transaction involves a municipal security for securities law purposes, the bank purchaser may consider the transaction to be a loan for certain banking or accounting purposes, thus making the bank less likely to engage in the financing where the new issue has a CUSIP number. As a result, dealers, on behalf of their municipal issuer clients, may be hindered in their ability to directly place municipal securities with banks and issuers may have fewer financing options or providers from which to choose.

In July 1992, the MSRB sought comment on possible exemptions from Rule G–34, including in sales of smaller issues, short-term issues and issues sold to a limited number of customers (*i.e.,* private placements).[16] The MSRB noted that in many of these instances, CUSIP numbers are not obtained because the dealer or financial advisor believes the securities will not trade in the secondary market. While the MSRB sought comment on a possible exemption, it noted that, at the time, it ''strongly believe[d] that whenever municipal securities are offered for sale in the market or must be processed through financial intermediaries, CUSIP numbers should be available to identify the securities accurately.'' [17]

The MSRB continues to believe that obtaining CUSIP numbers is generally a necessary aspect of, for example, tracking the trading, recordkeeping, clearance and settlement, customer account transfers and safekeeping of municipal securities, including those issued in private placements. The MSRB also is of the view that the increase in the number of direct purchase transactions between municipal issuers and banks as an alternative to letters of credit and other similar types of financings supports a limited exception from the blanket requirement to apply for CUSIP numbers in all private placements.

The proposed rule change would amend Rule G–34(a)(i) to add paragraph (F). This paragraph would add an exception from the CUSIP number requirement for situations where municipal securities are purchased directly by a bank,[18] any entity directly or indirectly controlled by the bank or under common control with the bank, other than a dealer registered under the Exchange Act (''non-dealer control affiliate''), or a consortium of the entities described above, and the dealer reasonably believes (based on, for example, a written representation from the purchaser) that the purchaser is purchasing the new issue of municipal securities with the present intent to hold the securities to maturity. The term ''bank'' in proposed new paragraph (F) would have the same meaning as set forth in Exchange Act Section 3(a)(6).[19]

The proposed rule change would clarify that the depository eligibility requirements of Rule G–34(a)(ii)(A) do not apply in the case of an exemption under Rule G–34(d), which exempts securities that are ineligible for CUSIP number assignment and municipal fund securities. Further, the proposed rule change would add subparagraph (a)(ii)(A)(3), providing an exception from the depository eligibility requirements in instances where the new issue is purchased directly by a bank,[20] a non-dealer control affiliate of a bank or a consortium thereof, and the underwriter reasonably believes, based on a written representation or otherwise, that the purchaser's present intent is to hold the municipal securities to maturity. For consistency, the proposed rule change would amend paragraph (a)(ii)(C), to clarify that the requirement to input information about a new issue into NIIDS only applies to an issue that has been made depository eligible.

• *Make Technical and Non-Substantive Changes.*

The proposed rule change also would make technical and non-substantive amendments as follows:

• The proposed rule change would move definitions that apply generally throughout the rule into a new section

[15] Exchange Act Release No. 22730 (Dec. 19, 1985), 50 FR 53046–01 (Dec. 27, 1985) (SR–MSRB–85–20).

[16] CUSIP Number Eligibility Standards and Requirements to Obtain CUSIP Numbers, MSRB Reports, Vol. 12, No. 2 (Jul. 1992).

[17] *Id.*

[18] The MSRB notes that a ''bank'' for purposes of the proposed exception would not include a ''separately identifiable department or division'' of a bank, within the meaning of Rule G–1(a).

[19] MSRB Rule D–1 states:

Unless the context otherwise specifically requires, the terms used in the rules of the Municipal Securities Rulemaking Board shall have the respective meanings set forth in the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) and the rules and regulations of the Securities and Exchange Commission thereunder.

Exchange Act Section 3(a)(6) defines ''bank'' to mean:

(A) a banking institution organized under the laws of the United States or a Federal savings association, as defined in section 2(5) of the Home Owners' Loan Act, (B) a member bank of the Federal Reserve System, (C) any other banking institution or savings association, as defined in section 2(4) of the Home Owners' Loan Act, whether incorporated or not, doing business under the laws of any State or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to national banks under the authority of the Comptroller of the Currency pursuant to the first section of Public Law 87–722 (12 U.S.C. 92a), and which is supervised and examined by State or Federal authority having supervision over banks or savings associations, and which is not operated for the purpose of evading the provisions of this title, and (D) a receiver, conservator, or other liquidating agent of any institution or firm included in clauses (A), (B), or (C) of this paragraph.

[20] *See* footnote 18, *supra.*

(e) on definitions, and, as noted above, would add a new definition of ''underwriter'' in subsection (e)(vii). The terms moved into the new section (e) would be (i) auction agent; (ii) auction rate security; (iii) notification period; (iv) program dealer; (v) remarketing agent; (vi) SHORT system; (vii) underwriter; and (viii) variable rate demand obligation.

• The proposed rule change would amend the rule to make more specific references to the provision that describes information necessary for CUSIP number assignments. Currently, the rule refers throughout to paragraph (a)(i)(A). The proposed rule change would amend these references to refer to subparagraph (a)(i)(A)(4). Similarly, references in the rule to the enumerated items to be included in a CUSIP number application would be changed from ''(1) through (8)'' to ''(a) through (h).''

• Finally, the proposed rule change would change capitalized defined terms to lower case, as appropriate throughout the rule, and would amend references to sections, subsections, paragraphs and subparagraphs, as necessary, to be consistent with other MSRB rule formatting.

2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with the provisions of Section 15B(b)(2)(C) of the Act,[21] which provides that the MSRB's rules shall:

> 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 municipal securities and municipal financial products, to remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products, and, in general, to protect investors, municipal entities, obligated persons, and the public interest.

The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act [22] because the proposed rule change would remove impediments to and perfect the mechanism for a free and open municipal securities market by codifying existing interpretations and clarifying in the text of the rule that dealers acting as placement agents in private placement transactions, including direct purchases of municipal securities, are subject to the CUSIP-related requirements set forth in Rule G–34(a). In addition, the proposed rule change would help prevent fraudulent and manipulative practices, promote just and equitable principles of trade and protect investors, municipal entities, obligated persons and the public interest by ensuring that eligible municipal securities, including those issued in a private placement, have an appropriate identifier assigned in order to provide market participants with greater ability to receive, deliver, and safekeep such securities. Through the MSRB's Electronic Municipal Market Access (EMMA®) System,[23] investors and other market participants would have access to initial information on their investments organized by the particular CUSIP number, as well as transparency as to transaction details if the securities do later trade in the secondary market. The availability of an exception to this requirement would eliminate impediments to and perfect the mechanism of a free and open market in municipal securities by allowing dealers and municipal advisors to provide services in certain direct purchase transactions without inhibiting their issuer clients' access to financings that otherwise might not be available if CUSIP numbers were required. In addition, the proposed rule change would remove impediments to a free and open market by requiring all municipal advisors to comply with the requirements of Rule G–34(a)(i)(A), thus encouraging consistency and efficiency in competitive sales of municipal securities and ensuring that CUSIP numbers are obtained by municipal advisors earlier in a competitive deal to allow for immediate trading upon award.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 15B(b)(2)(C) of the Exchange Act requires that MSRB rules not be designed to impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.[24] In accordance with the MSRB's policy on the use of economic analysis,[25] the MSRB has considered the economic impact associated with the proposed rule change to MSRB Rule G–34, including a comparison to reasonable alternative regulatory approaches, relative to the baseline.[26] For purposes of its analysis, the MSRB considers the baseline to be full compliance by dealers with the existing CUSIP requirement.[27] The MSRB does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.

The intent of the proposed rule change is to (1) clarify in rule text the MSRB's longstanding view that dealers acting as placement agents in private placements of municipal securities, including direct purchases, are underwriters and thus must apply for CUSIP numbers for new issues; and (2) apply the CUSIP number requirements to all municipal advisors advising on a competitive sale of municipal securities. In addition, the proposed rule change provides a principles-based exception for dealers and municipal advisors from the CUSIP number requirements and for dealers from the depository eligibility requirements in certain direct purchase transactions.

The MSRB believes the proposed rule change would reduce regulatory uncertainty for underwriters and municipal advisors with regard to the requirement to apply for CUSIP numbers. Pursuant to the proposed rule change, dealers would know with greater certainty when application for a CUSIP number is required in private placement transactions. Similarly, while in practice some non-dealer municipal advisors may be applying for CUSIP numbers in a competitive offering before the final award is made,[28] the proposed rule change would ensure that this is the case, thus reducing the risk of delays in secondary market trading where a competitive offering is awarded but no CUSIP number has been assigned.

The MSRB believes that the principles-based exception from the CUSIP number requirements for dealers and municipal advisors may limit or reduce those instances where a dealer or municipal advisor may be required to apply for a CUSIP number in a direct purchase transaction. The MSRB believes that for dealers currently complying with the CUSIP number requirements in private placement transactions, the proposed rule change

[21] 15 U.S.C. 78*o*–4(b)(2)(C).

[22] *Id.*

[23] EMMA is a registered trademark of the MSRB.

[24] 15 U.S.C. 78*o*–4(b)(2)(C).

[25] Policy on the Use of Economic Analysis in MSRB Rulemaking, available at *http://msrb.org/Rules-and-Interpretations/Economic-Analysis-Policy.aspx.*

[26] As an alternative to the proposed rule change, the MSRB considered making no amendments, while its request for comment nevertheless served as a reminder of the MSRB's longstanding interpretation that dealers, when acting as a placement agent in a private placement, are required to apply for CUSIP numbers. *See* MSRB Regulatory Notice 2017–05.

[27] The MSRB is aware, however, that there is uncertainty among at least some market participants with regard to the application of the existing rule.

[28] By comparison, in a negotiated offering, underwriters are already established and CUSIP numbers can be assigned on a pre-trade basis before pricing.

may lower their costs in those instances where they could rely on the proposed exception. Similarly, dealers may see a reduction in costs for municipal securities that currently are subject to the depository eligibility requirements but could now be excepted from the requirements under the proposed rule change.[29] As a result of the exception, there would no longer be a need to make such securities depository eligible and input information about the new issue into NIIDS.

The MSRB believes that in instances where dealers or municipal advisors can rely on the principles-based exception based on their reasonable belief that, at the time of a purchase, a purchaser intends to hold the new issue of municipal securities to maturity, there is a risk of reduced transparency if, in the future, the purchaser decides to resell the securities without a CUSIP number. This could result in information asymmetry and price dislocation with respect to the subsequent purchaser.

While non-dealer municipal advisors would now be required to apply for CUSIP numbers when advising in competitive sales of new issue municipal securities, the rule change per se does not necessarily impose on them the cost of applying for the CUSIP number. According to staff at CUSIP Global Services (''CUSIP Services''), typically only the winning bidder for a competitive deal is billed after the CUSIP numbers are assigned. Even though the request for a CUSIP number may have come from a municipal advisor, it is not mandatory for the party applying for the CUSIP number to be billed for the fees (unless the applicant for the CUSIP number asks to be billed).[30]

The MSRB believes non-dealer municipal advisors, and to a much lesser extent, dealers, are likely to incur new up-front costs associated with the development of regulatory compliance policies and procedures. Some industry stakeholders[31] provided an estimate on compliance costs in terms of the number of labor hours needed to create and apply policies and procedures to comply with the proposed rule change, including determining the applicability of proposed exceptions. The cost estimates ranged from eight to 15 hours initially to set up the policies and procedures, and up to three hours per transaction thereafter to evaluate, for example, whether the investor intended to hold the securities to maturity. The MSRB believes these estimates are high, as, for example, the determination of whether a transaction involves a municipal security should have already been made for various other purposes and is therefore part of the baseline. Even at the upper bound of these estimates, these costs would be justified by the likely aggregate benefits of the proposed rule change over time, including reduced costs for some dealers who could elect not to apply for CUSIP numbers under the proposed exception.

Some industry stakeholders suggested that the MSRB should allow the use of other standard identifiers in addition to CUSIP numbers, as these commenters believed other identifiers may be easier and less costly to obtain.[32] The MSRB understands commenters' concerns, but believes this issue should be considered separately from this proposed rule change. Allowing the use of other identifiers would have implications for many other MSRB rules that are beyond the scope of this particular proposal.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Summary of Comments Received in Response to the First Request for Comment

On March 1, 2017, the MSRB published a request for comment (''First RFC''), proposing draft amendments to Rule G–34.[33] The First RFC sought to (1) amend the definition of ''underwriter'' as it is used in Rule G–34 to clarify that dealers acting as placement agents in private placements of municipal securities, including direct purchase transactions, are ''underwriters'' for purposes of the rule and are required to apply for CUSIP numbers for such transactions; (2) expand the rule to require non-dealer municipal advisors also to be subject to the CUSIP number requirements when acting as an advisor in a competitive sale of a new issue; and (3) to make technical amendments as necessary. The MSRB received 20 comment letters,[34] most of which opposed the blanket requirement to apply for CUSIP numbers in private placements with many suggesting alternative approaches. Commenters were split on the desirability of expanding the rule to include non-dealer municipal advisors.

Clarification of the ''Underwriter'' Definition To Include Placement Agents

The majority of commenters to the First RFC opposed the MSRB's draft amendment to Rule G–34(a)(i) that would clarify the requirement for

[29] These municipal securities may no longer need a CUSIP number under the proposed CUSIP exception, and thus they may no longer fall under the depository eligibility requirement.

[30] According to its 2017 fee schedule, CUSIP Services charges $173 for the first maturity, plus $22 for each additional maturity or class per series in the same application/offering document. For example, an offering with the first maturity and ten additional maturities or classes would cost a total of $393 ($173 + ($22 × 10)). *See https://www.cusip.com/pdf/2017FeesforCUSIPAssignment.pdf.*

[31] *See, infra,* National Association of Municipal Advisors: Letter from Susan Gaffney, Executive Director, dated June 30, 2017 (''NAMA Letter II''); and Securities Industry and Financial Markets Association: Letter from Leslie M. Norwood, Managing Director and Associate General Counsel, dated June 30, 2017 (''SIFMA Letter II'').

[32] *See, infra,* Bloomberg, L.P.: Letter from Peter Warms, Senior Manager of Fixed Income, Entity, Regulatory Content and Symbology, undated (''Bloomberg Letter II'').

[33] MSRB Notice 2017–05.

[34] Acacia Financial Group, Inc.: Letter from Noreen P. White, Co-President; Kim M. Whelan, Co-President, dated March 31, 2017 (''Acacia Letter I''); American Bankers Association: Letter from Cristeena G. Naser, Vice President and Senior Counsel, Center for Securities, Trust & Investment, dated March 24, 2017 (''ABA Letter I''); Bloomberg, L.P.: Letter from Peter Warms, Senior Manager of Fixed Income, Entity, Regulatory Content and Symbology, undated (''Bloomberg Letter I''); Bond Dealers of America: Letter from Mike Nicholas, Chief Executive Officer, dated March 31, 2017 (''BDA Letter I''); CUSIP Services: Letter from Scott J. Preiss, Managing Director, Global Head, dated March 30, 2017 (''CUSIP Services''); Dixworks LLC: Email from Dennis Dix, Jr., Principal, dated March 29, 2017 (''Dixworks''); First River Advisory L.L.C.: Email from Shelley Aronson, dated March 22, 2017 (''First River Advisory''); George K. Baum & Company: Letter from Guy E. Yandel, EVP & Co-Manager Public Finance; Dana L. Bjornson, EVP, CFO & Chief Compliance Officer; Andrew F. Sears, EVP & General Counsel, dated March 31, 2017 (''George K. Baum''); Government Finance Officers Association: Letter from Emily Brock, Director, Federal Liaison Center, dated March 31, 2017 (''GFOA Letter I''); National Association of Health and Educational Facilities Finance Authorities: Letter from Donna Murr, President; Martin Walke, Advocacy Committee Chair, dated March 31, 2017 (''NAHEFFA''); National Association of Municipal Advisors: Letter from Susan Gaffney, Executive Director, dated March 31, 2017 (''NAMA Letter I''); National Federation of Municipal Analysts: Letter from Julie Egan, NFMA Chair 2017; Lisa Washburn, NFMA Industry Practices and Procedures Chair, dated March 31, 2017 (''NFMA''); Opus Bank: Email from Dmitry Semenov, Senior Managing Director, Public Finance, dated March 15, 2017 (''Opus''); Phoenix Advisors, LLC: Letter from David B. Thompson, CEO, dated March 21, 2017 (''Phoenix Advisors''); Piper Jaffray & Co.: Letter from Frank Fairman, Managing Director, Head of Public Finance Services; Rebecca Lawrence, Managing Director, Associate General Counsel, Public Finance & Fixed Income, dated March 31, 2017 (''Piper Jaffray Letter I''); Public Financial Management, Inc. and PFM Financial Advisors: Letter from Cheryl Maddox, General Counsel; Leo Karwejna, Chief Compliance Officer, dated March 31, 2017 (''PFM Letter I''); Email from Rudy Salo, dated March 31, 2017; Securities Industry and Financial Markets Association: Letter from Leslie M. Norwood, Managing Director and Associate General Counsel, dated March 31, 2017 (''SIFMA Letter I''); SMA: Email from Michael Cawley, dated March 21, 2017 (''SMA Letter I''); State of Florida, Division of Bond Finance: Letter from J. Ben Watkins III, Director, Division of Bond Finance, dated April 7, 2017 (''State of Florida'').

dealers to apply for CUSIP numbers in private placements,[35] while one commenter explicitly supported the draft amendment.[36] Three commenters noted that, if the amendment to the definition of ''underwriter'' were adopted as proposed in the First RFC, other aspects of Rule G–34 would be implicated.[37] In particular, Rule G–34(a)(ii) regarding application for depository eligibility and dissemination of new issue information requires the underwriter to apply to a securities depository to make a new issue depository eligible and to communicate information about the new issue pursuant to the rule. These commenters noted that application of this part of the rule to private placements may not be appropriate. Specifically, the requirement that the underwriter apply to the Depository Trust and Clearing Corporation (''DTCC'') to make a new issue depository eligible and then input certain information into the NIIDS may not be appropriate or possible with respect to private placements. One commenter suggested that, if the MSRB adopts the revised definition of ''underwriter,'' it should clarify that any issuance that does not meet DTCC eligibility criteria or for which CUSIP numbers cannot or are not required to be obtained should be exempt from Rule G–34(a)(ii) requirements.[38]

Nine commenters supported an exception from the CUSIP number requirement for private placements sold to a single purchaser or a limited number of purchasers.[39] One commenter noted that typical purchasers in a private placement are sophisticated financial institutions with knowledge and experience in financial matters,[40] while others noted that the draft amendment could put a damper on the bank loan and direct purchase markets and, as a result, increase costs to issuers.[41]

Two commenters objected to the proposed parenthetical in the draft amendment to Rule G–34(a), ''. . . each broker, dealer or municipal securities dealer acting as an underwriter (*which includes a placement agent*) . . .'' (emphasis added) and suggested it should be deleted,[42] and four other commenters objected to the application of the CUSIP number requirement to placement agents, generally.[43]

Some commenters stated that private placements, by their nature, should not have CUSIP numbers because they are private transactions, and others stated that not obtaining a CUSIP number ensures the municipal securities will not be resold.[44] Several commenters stated that requiring placement agents to obtain CUSIP numbers in private placements may discourage issuers from using placement agents at all.[45]

One commenter indicated that while it does not take a position on when CUSIP numbers should or should not be obtained, it would be concerned about the potential disclosure consequences in the EMMA system if the proposed amendments and clarifications would result in more bank loans, direct purchases and private placements requiring CUSIP numbers.[46] This commenter indicated that, if new CUSIP numbers are obtained for each private debt transaction of an issuer, it could result in fewer disclosure notices being posted or linked to the CUSIP numbers for affected publicly outstanding debt, thus reducing the information flow to investors. Similarly, another commenter believed private placement information should be posted on EMMA under the CUSIP numbers for an issuer's outstanding publicly-offered bonds, and not under a separate, distinct CUSIP number.[47] Other commenters noted that they would rather see enhancements to EMMA than additional requirements placed on market participants.[48]

One commenter suggested that the MSRB use this opportunity to consider allowing the use of open standard identifiers for financial transactions and products in place of CUSIP numbers as a regulatory alternative to mandating that only CUSIP numbers be used.[49]

Finally, two commenters urged the MSRB to make any amendment prospective, regardless of whether it is deemed a clarification to an existing rule.[50]

Requirement That Non-Dealer Municipal Advisors Apply for CUSIP Numbers

Five commenters believed non-dealer municipal advisors should not be required to apply for CUSIP numbers in competitive new issues of municipal securities.[51] Two commenters believed doing so would serve no useful purpose and would pose an undue burden on small municipal advisors.[52] One commenter suggested that the better approach would be to eliminate the requirement that dealers acting as financial advisors obtain CUSIP numbers in competitive new issues and to instead require the underwriter who wins the bid to obtain the CUSIP numbers.[53]

Four commenters supported the draft amendment to require non-dealer municipal advisors to be subject to the requirements of Rule G–34(a) with respect to competitive transactions.[54]

Summary of Comments Received in Response to the Second Request for Comment

After carefully considering commenters' suggestions and concerns, on June 1, 2017, the MSRB published a second request for comment (''Second RFC'').[55] The Second RFC sought further comment on the same three issues from the First RFC. However, the Second RFC also sought comment on draft amendments that would except from the CUSIP number requirements dealers and municipal advisors engaged in direct purchase transactions with a bank, its bank affiliates or a consortium of banks formed for the purpose of participating in the new issue, where the dealer or municipal advisor had a reasonable belief that the purchaser(s) of the new issue intended to hold the securities to maturity and would limit resales of the municipal securities to other banks, bank affiliates or a consortium thereof. The draft amendments in the Second RFC also sought comment on the application of this exception to the requirement for underwriters to make an application for depository eligibility under Rule G–34(a)(ii). The MSRB proposed to define ''bank'' as it is defined in the Exchange Act.[56] The MSRB received 16 comment letters in response to the Second RFC.[57]

[35] Acacia Letter I, ABA Letter I, BDA Letter I, First River Advisory, George K. Baum, GFOA Letter I, NAHEFFA, NAMA Letter I, Piper Jaffray Letter I, PFM Letter I, SIFMA Letter I, SMA Letter I, State of Florida.

[36] CUSIP Services.

[37] BDA Letter I, GFOA Letter I and SIFMA Letter I.

[38] SIFMA Letter I.

[39] ABA Letter I, First River Advisory, George K. Baum, GFOA Letter I, NAHEFFA, NAMA Letter I, Piper Jaffray Letter I, Rudy Salo and SIFMA Letter I.

[40] George K. Baum.

[41] ABA Letter I, George K. Baum, GFOA Letter I, NAHEFFA, NAMA Letter I, Piper Jaffray Letter I, Rudy Salo, SIFMA Letter I and State of Florida.

[42] BDA Letter I and George K. Baum.

[43] BDA Letter I, GFOA Letter I, NAMA Letter I and NAHEFFA.

[44] BDA Letter I, First River Advisory and SIFMA Letter I.

[45] BDA Letter I, GFOA Letter I, NAMA Letter I and Piper Jaffray Letter I.

[46] NFMA.

[47] First River Advisory.

[48] GFOA Letter I, NAHEFFA and State of Florida.

[49] Bloomberg Letter I.

[50] BDA Letter I and SIFMA Letter I.

[51] Acacia Letter I, Dixworks, NAMA Letter I, PFM Letter I and SMA Letter I.

[52] Dixworks and NAMA Letter I.

[53] Acacia Letter I.

[54] George K. Baum, GFOA Letter I, Piper Jaffray Letter I and SIFMA Letter I.

[55] MSRB Notice 2017–11 (June 1, 2017).

[56] *See* footnote 19, *supra.*

[57] Acacia Financial Group, Inc.: Letter from Noreen P. White, Co-President; Kim M. Whelan, Co-

Limited Exception From the CUSIP Number Requirements

In response to commenters who opposed the clarification of the term ''underwriter'' that would result in a blanket requirement for dealers to apply for CUSIP numbers in all private placements, the MSRB proposed a limited exception from this requirement as noted above. Six of the 16 commenters generally supported the MSRB's proposed exception.[58] GCSC specifically noted its belief that the exception would help keep issuance costs low for small issuers. GFOA noted that the exception is ''a helpful step forward'' but stated that without clear guidance, the draft rule will dampen the demand for bank loans and direct purchase financings and raise borrowing costs. Acacia, while supportive of the proposed exception, indicated its continued concern over the need for dealers and municipal advisors to establish policies and procedures to arrive at the ''reasonable belief'' conclusion.

Some commenters supported the exception but suggested an expansion of the types of purchasers that could fit within its parameters. In particular, four commenters suggested that in addition to banks, as defined in the Second RFC, the MSRB should expand the exception also to apply to local governments privately purchasing municipal securities.[59] Other commenters suggested that the exception be expanded to include non-dealer subsidiaries of banks or bank holding companies[60] or any entity directly or indirectly controlled by the purchasing bank or under common control with the bank, or a consortium of such entities, other than a broker-dealer registered with the SEC pursuant to the Exchange Act.[61] In addition, the ABA suggested that the draft rule should require the purchasers of the municipal securities to represent that the securities are being purchased for their own account without an intention to resell them, while SIFMA proposed that the dealer or municipal advisor have a reasonable belief that this is the case. Both the ABA and SIFMA proposed that any resales would be limited to qualified institutional buyers as defined in Rule 144A of the Securities Act of 1933 (''Securities Act'') or an ''accredited investor'' as defined in Rule 501 of Regulation D under the Securities Act.

The ABA emphasized that many banks use bank holding company affiliates to provide municipal funding and the majority of these funding subsidiaries are non-bank entities. BDA similarly asked that further clarification be given to confirm that the exception would apply where a bank negotiates the purchase but the actual purchaser is a non-bank affiliate, and where there is more than one bank purchasing in a transaction.

Several commenters suggested that the principles-based exception needs further clarification. Specifically, three commenters believed additional language should be added to require the investor to represent its intention to hold the securities to maturity and limit resales.[62] Similarly, SIFMA requested clarification of the type of documentation underwriters or municipal advisors would need to produce in an exam with FINRA or the SEC in order to show compliance with the rule.

Two commenters opposed the exception.[63] CMF noted that by requiring alternative debt instruments to have security identifiers, the MSRB is promoting public awareness that issuers are taking on additional obligations. However, according to CMF, allowing such an exception for instruments not expected to trade in the secondary market is inconsistent with this transparency objective. PFM opposed the draft rule change entirely, and noted that the proposed exception cannot be supported without much needed regulatory guidance. In particular, PFM believed regulatory guidance must be provided with respect to the ''indicia of the required 'reasonable belief''' to include much more prescriptive detail. In addition, PFM believed the MSRB should withdraw any efforts to amend Rule G–34 until the SEC's proposed amendments to Exchange Act Rule 15c2–12 are completed. PFM noted that changes to the disclosure requirements under Rule 15c2–12 would provide a foundation for any action the MSRB might take with respect to Rule G–34. Finally, GFOA indicated that, if certain clarifications cannot be made regarding compliance with the draft rule changes, the MSRB should continue investing in enhancing the EMMA system.

Upon consideration of the comments received in response to the Second RFC, the MSRB is proposing an expanded exception to include purchasers that are non-dealer control affiliates of a bank. Based on comments received, the MSRB understands that in many direct purchase transactions there may be business reasons to hold a new issue municipal security in an affiliated entity that is not a bank. The MSRB further agrees that the exception should not be available if the entity purchasing or holding the municipal security is a dealer affiliate. With respect to expanding the exception to include local governments purchasing municipal securities, the MSRB understands that in these scenarios the transactions are negotiated directly between the two parties, without the involvement of an underwriter. As a result, the CUSIP number requirements of Rule G–34(a)(i) would not apply and the need to expand the exception to include these scenarios is unnecessary.

In addition, the proposed exception would require the dealer to have a reasonable belief that the purchaser is purchasing with a present intent to hold the securities to maturity. Commenters asked for a more prescriptive requirement as to how one would show a reasonable belief. However, the MSRB believes dealers should determine the best way to make such a determination based on their particular business and practices. The determination could be made based upon, for example, a representation from the purchaser, though obtaining a representation is not required. Indeed, as a general matter, the proposed rule would not dictate the way in which a dealer must arrive at the ''reasonable belief.'' In addition, the proposed rule would not include

President, dated June 29, 2017 (''Acacia Letter II''); American Bankers Association: Letter from Cristeena G. Naser, Vice President and Senior Counsel, Center for Securities, Trust & Investment, dated June 30, 2017 (''ABA Letter II''); Bloomberg Letter II; Bond Dealers of America: Letter from Mike Nicholas, Chief Executive Officer, dated June 29, 2017 (''BDA Letter II''); Center for Municipal Finance: Letter from Marc D. Joffe, President, dated June 28, 2017 (''CMF''); Eastern Bank: Letter, undated (''Eastern Bank''); Fieldman Rolapp & Associates: Letter from Adam S. Bauer, Chief Executive Officer and President, dated June 30, 2017 (''Fieldman''); Government Capital Securities Corp: Email from Ted Christensen, dated June 1, 2017 (''GCSC''); Government Finance Officers Association: Letter from Emily Brock, Director, Federal Liaison Center, dated June 30, 2017 (''GFOA Letter II''); NAMA Letter II; New Jersey State League of Municipalities: Letter from Michael F. Cerra, Assistant Executive Director, dated June 27, 2017 (''NJLM''); Piper Jaffray & Co.: Letter from Frank Fairman, Managing Director, Head of Public Finance Services; Rebecca Lawrence, Managing Director, Associate General Counsel, Public Finance & Fixed Income, dated June 29, 2017 (''Piper Jaffray Letter II''); Public Financial Management, Inc. and PFM Financial Advisors LLC: Letter from Leo Karwejna, Chief Compliance Officer; Cheryl Maddox, General Counsel; Catherine Humphrey-Bennett, Municipal Advisory Compliance Officer, dated July 3, 2017 (''PFM Letter II''); SIFMA Letter II; Southern Municipal Advisors, Inc.: Letter from Michael C. Cawley, Senior Consultant, dated June 29, 2017 (''SMA Letter II''); Township of East Brunswick: Email from L. Mason Neely, dated June 2, 2017 (''East Brunswick'').

[58] Acacia Letter II, ABA Letter II, BDA Letter II, GCSC; Piper Jaffray Letter II and SIFMA Letter II.

[59] GFOA Letter II, NAMA Letter II, NJLM and East Brunswick.

[60] Piper Jaffray Letter II.

[61] ABA Letter II and SIFMA Letter II.

[62] ABA Letter II, GFOA Letter II and NAMA Letter II.

[63] CMF and PFM Letter II.

language in the exception that would require a dealer or municipal advisor to draw conclusions regarding the circumstances of the purchaser's possible resales in the future, if the purchaser's present intent were to change. The MSRB believes that the dealer's reasonable belief as to the present intent of the purchaser is adequate and that the circumstances of any subsequent resales would be outside the scope of the dealer's analysis surrounding the initial sale of the new issue securities.

Requirement That Non-Dealer Municipal Advisors Apply for CUSIP Numbers

In the Second RFC, the MSRB proposed draft amendments that generally would require all municipal advisors in competitive new issues to apply for CUSIP numbers. Reference to ''competitive offering'' was meant to refer to competitive offerings in a typical public distribution of municipal securities. However, the MSRB noted its understanding that there are direct purchase scenarios in which the municipal advisor arranges competitive bids from, for example, three banks competing for a direct purchase. In circumstances like those, the MSRB indicated that the security purchased by the winning direct purchaser may not require a CUSIP number if the municipal advisor, like the dealer placement agent described above in a direct purchase by a bank, could make a principled determination that trading is unlikely and, thus, CUSIP numbers are not necessary. The Second RFC proposed draft amendments that would allow a municipal advisor to rely on the exception from the CUSIP number requirement if the conditions were met.

Five commenters believed Rule G–34 should not apply to any municipal advisors and that the obligation to obtain a CUSIP number should rest solely with the underwriter.[64] Acacia and NAMA stated that while not every competitive sale has a municipal advisor, they each do have an underwriter and thus, for consistency, it makes sense that the underwriter would obtain the CUSIP number. In addition, NAMA stated that a municipal advisor does not have an interface with the investor prior to the completion of the competitive sale process and by making a determination regarding the investor's intentions to hold or sell a security, in addition to considering whether an instrument is in fact a security, the municipal advisor might be engaging in broker-dealer activity. According to NAMA, there is no benefit to municipal advisory clients or municipal advisors by requiring municipal advisors to obtain CUSIP numbers. Similarly, SMA stated that obtaining a CUSIP number is an underwriter's responsibility and the imbalance between dealer municipal advisors and non-dealer municipal advisors is justified by the differing roles they play in the market. PFM stated that applying for a CUSIP number is activity outside of the municipal advisor's responsibility and ''epitomizes traditional broker-dealer type activity.''

Two commenters indicated that the costs on non-dealer municipal advisors of complying with the proposed obligations, including creating and implementing policies and procedures, would be problematic and create a new regulatory burden.[65] Finally, one commenter noted concern that for a municipal advisor to obtain a CUSIP number in a competitive sale, it must make certain assumptions about the final bond structure or know the preferred structure of the eventual purchaser.[66]

Three commenters supported the MSRB's efforts to address any potential regulatory inefficiencies between dealer and non-dealer municipal advisors.[67] SIFMA noted that, if there is a non-dealer municipal advisor assisting an issuer who is currently not required to obtain a CUSIP number, then each bidding dealer in a competitive sale must obtain a set of CUSIP numbers for the transaction, in case they are the winning bidder. Obtaining the CUSIP number before a dealer is selected is necessary, according to SIFMA, because of the subsequent timing requirements related to inputting information into NIIDS. SIFMA believed it is more efficient for a single municipal advisor to an issuer to obtain CUSIP numbers than for several dealers competing for a sale to obtain CUSIP numbers knowing that all but one dealer will need to cancel the request.

The MSRB believes the policy reasons to require dealer municipal advisors to apply for CUSIP numbers in competitive sales of new issue securities are just as applicable to non-dealer municipal advisors. Further, removing the municipal advisor (whether dealer or non-dealer) altogether from the requirement could result in trading delays where the winning dealer in a competitive transaction applies for the CUSIP number after the award is made. In the alternative, removal of dealer municipal advisors from the requirement could result in inefficiencies where multiple dealers apply for CUSIP numbers for the same transaction before the award is made and subsequently cancel them if they are not selected as the winning dealer. The proposed rule change therefore would require municipal advisors, both dealer and non-dealer alike, to apply for CUSIP numbers for new issue securities when advising on a competitive sale of such new issue securities. This ensures efficiencies in the market by requiring CUSIP numbers to be assigned prior to the award of the issue in a competitive sale where a municipal advisor is retained. Where the competitive sale might result in a direct purchase by a bank, its non-dealer control affiliates or a consortium thereof, the municipal advisor may determine not to obtain a CUSIP number if it reasonably believes the purchaser's present intent is to hold the municipal securities to maturity. If the structure of the transaction changes after a municipal advisor has applied for the CUSIP number, Rule G–34(a)(i)(A)(5) requires that the information provided in the CUSIP number application be updated as soon as it is known, but in any event, no later than a time sufficient to ensure CUSIP number assignment occurs prior to dissemination of the time of first execution. The MSRB would expect the regulated entity that originally applied for the CUSIP number to comply with Rule G–34(a)(i)(A)(5) to correct any CUSIP number information inconsistencies.[68]

Other Comments

Three commenters expressed their view that the MSRB should not require the use of a proprietary, for-profit identifier such as CUSIP.[69] These commenters believed that the rule should include the ability of an underwriter or municipal advisor to use any identification number widely accepted in the municipal securities market. BDA stated that by specifically referring to CUSIP numbers, the MSRB is stifling competition in the area. Bloomberg suggested that the MSRB add ''or other standard identifier'' to the CUSIP number references in the rule.

The MSRB understands commenters' concerns with respect to this issue, but, because this issue arises in numerous other contexts, believes it should be considered separately from this

[64] Acacia Letter II, Fieldman, NAMA Letter II, PFM Letter II and SMA Letter II.

[65] Acacia Letter II and NAMA Letter II.

[66] Fieldman.

[67] BDA Letter II; Piper Jaffray Letter II and SIFMA Letter II.

[68] *See* Exchange Act Release No. 57131 (January 11, 2008), 73 FR 3295 (January 17, 2008) (SR–MSRB–2007–08) and MSRB Notice 2007–10.

[69] Bloomberg Letter II; BDA Letter II and CMF.

initiative, which is focused on only one MSRB rule. The MSRB notes that it is currently monitoring or involved in various industry initiatives to modernize identifiers.

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 of 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–MSRB–2017–06 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR–MSRB–2017–06. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the MSRB. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MSRB–2017–06 and should be submitted on or before October 10, 2017.

For the Commission, pursuant to delegated authority.[70]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–19804 Filed 9–15–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81594; File No. SR–BatsBZX–2017–57]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 11.13, Order Execution and Routing, To Account for IEX as a Primary Listing Market and To Amend Certain Rules To Reflect the Name Change of NYSE MKT to NYSE American

September 13, 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 September 6, 2017, Bats BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend paragraphs (b)(3)(M) and (N) of Rule 11.13, Order Execution and Routing, to expand the ability of Users[5] to designate their orders for participation in the opening, re-opening (following a halt, suspension, or pause), or closing process of a primary listing market other than the Exchange (NYSE, Nasdaq, NYSE MKT, or NYSE Arca) to include the Investors Exchange LLC (''IEX''). The Exchange also proposes to amend paragraphs (b)(3)(M) and (N) of Rule 11.13 as well as Rules 11.24(c)(1) and 11.26(a) to reflect the name change of NYSE MKT to NYSE American.

The text of the proposed rule change is available at the Exchange's Web site at *www.bats.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Exchange Rule 11.13(b)(3)(N) describes the ROOC routing option, under which Users may designate their orders for participation in the opening or closing process, in addition to the re-opening (following a halt, suspension, or pause), of a primary listing market other than the Exchange, if received before the opening/re-opening/closing time of such market.[6] Under Exchange Rule 11.13(b)(3)(M), Users may also elect that their orders be routed to participate in the primary market's re-opening process, and not its opening or closing processes. Any remaining shares

[70] 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).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] The term ''User'' is defined as ''any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3.'' *See* Exchange Rule 1.5(cc).

[6] *See* Exchange Rule 11.13(b)(3)(N).

are either posted to the BZX Book,[7] executed, or routed to destinations on the System routing table.[8]

IEX announced that it intends to become a primary listing exchange and support IEX-listed companies beginning in October 2017.[9] At that time, the Exchange will enable Users to elect that their orders in IEX-listed securities be routed to IEX to participate in IEX's opening, re-opening (following a halt, suspension, or pause), or closing process. Therefore, the Exchange proposes to amend paragraphs (b)(3)(M) and (N) of Rule 11.13 to include IEX as a primary listing market to which Users may designate their orders be routed.[10]

Lastly, the Exchange also proposes non-substantive amendments to paragraphs (b)(3)(M) and (N) of Rule 11.13 as well as Rules 11.24(c)(1) and 11.26(a) to reflect the name change of NYSE MKT to NYSE American.[11]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [12] in general, and furthers the objectives of Section 6(b)(5) of the Act [13] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. As discussed above, IEX announced that it intends to become a primary listing exchange and support IEX-listed companies beginning in October 2017.[14] Certain Users whose orders in IEX-listed securities are resting on the BZX Book may wish that their order only be routed to participate in IEX's opening, closing, or re-opening process. The proposed rule change promotes just and equitable principles of trade because it would provide such Users with additional flexibility with regard to their orders in IEX-listed securities.

Lastly, the non-substantive amendments to paragraphs (b)(3)(M) and (N) of Rule 11.13 as well as Rules 11.24(c)(1) and 11.26(a) to reflect the name change of NYSE MKT to NYSE American also removes impediments to and perfects the mechanism of a free and open market and a national market system because it updates the rules to reflect the name change and does not alter the way in which orders in NYSE American listed securities are handled and routed.

(A) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposal will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that its proposal would increase competition because it offers Users an alternative means to route orders to participate in IEX's opening, closing, and re-opening following a halt, suspension, or pause as if they entered orders on that market directly.

B. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (A) Significantly affect the protection of investors or the public interest; (B) impose any significant burden on competition; and (C) by its terms, become operative for 30 days from the date on which it was filed or such shorter time as the Commission may designate it has become effective pursuant to Section 19(b)(3)(A) of the Act [15] and paragraph (f)(6) of Rule 19b–4 thereunder,[16] the Exchange has designated this rule filing as non-controversial. The Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

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: (1) Necessary or appropriate in the public interest; (2) for the protection of investors; or (3) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BatsBZX–2017–57 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–BatsBZX–2017–57. 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

[7] The term ''BZX Book'' is defined as ''the System's electronic file of orders.'' *See* Exchange Rule 1.5(e).

[8] The term ''System routing table'' refers to the proprietary process for determining the specific options exchanges to which the System routes orders and the order in which it routes them. *See* Exchange Rule 11.13(b)(3).

[9] *See* IEX Trading Alert #2017–05, Listing Specifications, Testing Opportunities, and Timelines, *available at https://iextrading.com/trading/alerts/2017/015/. See also* Securities Exchange Act Release No. 81316 (August 4, 2017), 82 FR 37474 (August 10, 2017) (SR–IEX–2017–10) (Order approving proposed rule change related in auctions in IEX-listed securities, dissemination of auction-related data, and provisions governing trading halts and pauses).

[10] The Exchange also proposes to amend paragraph (b)(3)(M) of Rule 11.13 to replace the term ''Bats'' with ''BZX'' to reflect the correct defined term of ''BZX Book''. *See* Exchange Rule 1.5(e).

[11] *See* Securities Exchange Act Release No. Securities Exchange Act Release No. 80283 (March 21, 2017), 82 FR 15244 (March 27, 2017) (SR–NYSEMKT–2017–14).

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] *See supra* note 9.

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4.

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–BatsBZX–2017–57 and should be submitted on or before October 10, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–19803 Filed 9–15–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81597; File No. SR–MRX–2017–17]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Remove Language From Chapter 19 of the Rulebook

September 13, 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 August 31, 2017, Nasdaq MRX, LLC (''MRX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to remove language from Chapter 19 related to a systems issue that has been resolved with the completed migration of the Exchange to Nasdaq INET.

The text of the proposed rule change is available on the Exchange's Web site at *www.ise.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to remove language from Chapter 19 related to a systems issue that has been resolved with the completed migration of the Exchange to Nasdaq INET. On June 6, 2017, the Exchange filed a proposed rule change to amend Chapter 19 to notify members of a systems issue related to allocations made pursuant to Supplementary Material .02(a)–(b) to Rule 1901 (''Flash auction'').[3] As explained in that proposed rule change, due to a systems issue, Flash auction allocations pursuant to Supplementary Material .02(a)–(b) to Rule 1901 were not being provided as described in that rule, and instead Primary Market Maker quotes were being given a Flash auction allocation pursuant to Supplementary Material .01(b)–(c) to Rule 713 after Priority Customer Orders on the book, and ahead of Responses, Professional Orders, and other market maker quotes. This systems issue has been resolved with the Exchange's migration to Nasdaq INET, which was completed on Monday, August 21, 2017. As all symbols are now trading on INET, contracts executed in a Flash auction will be allocated correctly pursuant to Supplementary Material .02 to Rule 1901. The Exchange therefore proposes to remove the language described above from its rulebook.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[4] In particular, the proposal is consistent with Section 6(b)(5) of the Act,[5] because is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule change is consistent with the protection of investors and the public interest because the systems issue described in Chapter 19 has been resolved. Due to a systems issue, allocations in the Flash auction were not being done in the manner described in Supplementary Material .02(a)–(b) to Rule 1901. As a temporary measure, the Exchange therefore added language to that effect to Chapter 19. With the migration of the Exchange's trading system to Nasdaq INET, this systems issue has been eliminated, and the Exchange therefore believes that it is appropriate to remove this language from Chapter 19.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[6] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change eliminates outdated text reflecting a systems issue related to Flash auction allocations, and is not designed to have any competitive impact.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the 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

[17] 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. 80965 (June 19, 2017), 82 FR 28716 (June 23, 2017) (SR–MRX–2017–07).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(b)(8).

19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[9] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[10] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay. The Exchange states that waiver of the operative delay is consistent with the protection of investors and the public interest as it will allow the Exchange to immediately remove outdated language from Chapter 19 and thereby avoid member confusion about how Flash auction allocations are performed on the Exchange. The Commission believes the waiver of the operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MRX–2017–17 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–MRX–2017–17. 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–MRX–2017–17, and should be submitted on or before October 10, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–19806 Filed 9–15–17; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] 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).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81600; File No. SR–BatsEDGA–2017–23]

Self-Regulatory Organizations; Bats EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Transaction Fees

September 13, 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 August 31, 2017, Bats EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members[5] and non-Members of the Exchange pursuant to EDGA Rules 15.1(a) and (c).

The text of the proposed rule change is available at the Exchange's Web site at *www.bats.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The term ''Member'' is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' *See* Exchange Rule 1.5(n).

Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its fee schedule to: (i) Outline the fees for MidPoint Discretionary Orders (''MDO'') [6] by adopting new fee codes DA and DR as well as amending the descriptions of fee codes DM and DT; and (ii) amend the RMPT/RMPL Tiers under footnote 1.

Fees for MidPoint Discretionary Orders

In sum, an MDO is a limit order to buy that is displayed at and pegged to the National Best Bid (''NBB''), with discretion to execute at prices up to and including the midpoint of the National Best Bid and Offer (''NBBO''), or a limit order to sell that is displayed at and pegged to the National Best Offer (''NBO''), with discretion to execute at prices down to and including the midpoint of the NBBO.[7] MDOs are designed to exercise discretion to execute to the midpoint of the NBBO and provide price improvement over the NBBO. Currently, an MDO is displayed on the EDGA Book [8] at the NBB or NBO to which it is pegged. Starting on September 15, 2017, the Exchange will permit Users [9] to elect that their MDO be non-displayed on the EDGA Book at the NBB or NBO to which it is pegged.[10]

Today, an MDO is subject to the standard rates for adding or removing liquidity when executed at the NBB or NBO to which it is pegged. The standard rate for adding or removing liquidity in securities priced at or above $1.00 is $0.0003 per share and free for securities priced below $1.00.[11] MDOs that are executed within their discretionary range are free in securities priced at, above, or below $1.00. MDOs that are executed within their discretionary range yield fee code DM where they add liquidity and fee code DT where they remove liquidity.

The Exchange now proposes to adopt new fee codes DA and DR as well as amend the descriptions of fee codes DM and DT in order to outline the fees for MDOs. Today, a non-displayed order that adds liquidity yields fee code HA and is free for securities priced at, above, or below $1.00. A non-displayed order that removes liquidity yields fee code HR and is charged a fee of $0.0005 per share in securities priced at or above $1.00 and 0.05% of the transaction's dollar value in securities priced below $1.00. Absent this proposed rule change, beginning on September 15, 2017, an MDO that is non-displayed on the EDGA Book would yield fee codes HA or HR when executed at its pegged price.

The Exchange now proposed to adopt new fee codes DA and DR that would apply to all MDO that are executed at their pegged price, regardless of whether they are displayed or not. Fee code DA would be appended to all MDOs that add liquidity not within their discretionary range (*i.e.,* executed at their pegged price) and fee code DR would be appended to all MDOs that remove liquidity not within their discretionary range. MDOs that yield fee code DA or DR would be charged a rate of $0.0003 per share for orders priced at or above $1.00 and no fee for orders priced below $1.00. This results in no rate change for displayed MDOs and a fee decrease from $0.0005 per share to $0.003 per share for non-displayed MDOs when both are executed at their pegged price [sic].

The Exchange also proposes to amend the descriptions of fee codes DM and DT to clarify that those fee codes apply when an MDO is executed within its discretionary range. The description of fee code DM currently states that it applies to a non-displayed order that adds liquidity using an MDO. Likewise, the description of fee code DT states that it applies to a non-displayed order that removes liquidity using an MDO. These descriptions were designed to include an MDO executed at a non-displayed price within its discretionary range and not at its displayed pegged price. In light of the proposed fee codes DA and DR that set forth fees for MDOs executed at their pegged price, the Exchange proposed to amend the descriptions of fee codes DM and DT to make clear they apply to MDOs executed within their discretionary range. As such, the description of fee code DM would be amended to state that it applies when an MDO adds liquidity within its discretionary range and the description of fee code DT would be amended to state that it applies when an MDO removes liquidity within its discretionary range. The Exchange does not propose to amend the rates applicable to fee codes DM and DT.

RMPT/RMPL Tiers

The Exchange offers two tiers under footnote 1, the RMPT/RMPL Tiers under which a Member receives a discounted fee of either $0.0006 or $0.0008 per share for orders yielding fee code PX [12] where that Member meets certain required criteria. Fee code PX is append to orders that are routed using the RMPL routing strategy to a destination not covered by fee code PL,[13] or are routed using the RMPT routing strategy, and are assessed a fee of $0.0012 per share on securities priced over $1.00, and a fee of 30% of the total dollar value on securities priced below $1.00. Under Tier 1, a Members is charged a discounted fee of $0.0008 per share for orders yielding fee code PX where they add or remove an ADV [14] greater than or equal to 2,000,000 shares using the RMPT or RMPL[15] routing strategies. Under Tier 2, a Member is charged a discounted fee of $0.0006 per share for orders yielding fee code PX where that Member adds or removes an ADV greater than or equal to 4,000,000 shares using the RMPT or RMPL routing strategies. The Exchange now proposes to delete Tier 1 and to increase the fee charged under Tier 2 from $0.0006 to $0.0008 per share. The Exchange also proposes to rename Tier 2 as Tier 1. The Exchange does not propose to amend

[6] *See* Exchange Rule 11.8(e).

[7] *See* Exchange Rule 11.8(e) for a complete description of the operation of MDOs.

[8] *See* Exchange Rule 1.5(d).

[9] *See* Exchange Rule 1.5(ee).

[10] *See Update: Bats EDGA Exchange Announces Availability of Non-Displayed Midpoint Discretionary Orders (Non-Displayed MDO) Effective September 15, 2017, available at http://cdn.batstrading.com/resources/release_notes/2017/Update-Bats-EDGA-Exchange-Announces-Hidden-Midpoint-Discretionary-Order-Hidden-MDO-Functionality-Available-Effective-September-15-2017.pdf. See also* Securities Exchange Act Release No. 81454 (August 22, 2017), 82 FR 40823 (August 28, 2017) (SR–BatsEDGA–2017–21) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 11.8, Order Types, To Permit Midpoint Discretionary Orders To Be Non-Displayed).

[11] *See* the Standard Rates table of the Exchange's fee schedule *available at http://www.bats.com/us/equities/membership/fee_schedule/edga/.*

[12] *See* the Exchange's fee schedule *available at http://www.bats.com/us/equities/membership/fee_schedule/edga/.*

[13] Fee code PL is appended to orders that are routed to Bats BZX Exchange, Inc., Bats EDGX Exchange, Inc., the New York Stock Exchange, Inc., NYSE Arca, Inc. or the Nasdaq Stock Market LLC using the RMPL routing strategy and are assessed a fee of $0.0030 per share on securities priced over $1.00, and 30% of the transaction's dollar value for securities priced below $1.00. *Id.*

[14] ADV is generally defined as average daily volume calculated as the number of shares added to, removed from, or routed by, the Exchange, or any combination or subset thereof, per day. *Id.*

[15] The RMPT routing strategy operates similarly to RMPL in that under both Mid-Point Peg Orders check the System for available shares and any remaining shares are then sent to destinations on the System routing table that support midpoint eligible orders. If any shares remain unexecuted after routing, they are posted on the EDGA Book as a Mid-Point Peg Order, unless otherwise instructed by the User. While RMPL and RMPT operate in an identical manner, the trading venues that each routing strategy routes to and the order in which it routes them differ. *See* Exchange Rule 11.11(g)(13).

the remaining tier's required criteria. Lastly, the Exchange proposes to make ministerial changes to the introduction to the RMPT/RMPL Tiers and the heading of the second column to make clear the discounted rate only applies to routed orders and not orders that remove liquidity.

Implementation Date

The Exchange proposes to implement these changes to its fee schedule on September 1, 2017. The remaining changes to its fee schedule applicable to non-displayed MDOs will be applicable until September 15, 2017 when that functionality becomes available.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[16] in general, and furthers the objectives of Section 6(b)(4),[17] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities.

Fees for MidPoint Discretionary Orders

The Exchange believes that its proposal to outline the fees for MDOs represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities in that they are designed to clearly delineate the rates applicable when an MDO is executed at its pegged price or within its discretionary range, in light of upcoming functionality that would enable a User to elect that their MDO not be displayed on the EDGA Book. As noted above, proposed new fee codes DA and DR result in no rate change for displayed MDOs and a fee decrease from $0.0005 per share to $0.003 per share for non-displayed MDOs when both are executed at their pegged price [sic]. The Exchange believes it is equitable and reasonable to charge a lower fee to MDOs than other non-displayed orders here as MDOs add liquidity at the NBBO while offering price improvement opportunities to incoming contra-side orders that execute within its discretionary range. The amendments to the descriptions of fee codes DM and DT are also equitable and reasonable in that they clarify the application of those fee codes, thereby avoiding potential investor confusion. Lastly, the Exchange also believes that the proposed amendments are non-discriminatory because they apply uniformly to all Members.

RMPT/RMPL Tiers

The Exchange believe that the amendments to the RMPL/RMPT Tiers are also reasonable and equitable because it is designed to attract additional midpoint liquidity to the Exchange by removing a tier with lower ADV requirement, resulting in increased price improvement opportunities for orders seeking an execution at the midpoint of the NBBO on the Exchange or elsewhere. In addition, increasing the rate for the remaining tier is designed to cover the Exchange's routing costs while continuing to provide the Exchange revenue to be used to fund the Exchange generally. This includes the cost of maintaining and improving the technology used to handle and route orders from the Exchange as well as programs that the Exchange believes help to attract additional liquidity and thus improve the depth of liquidity available on the Exchange. The Exchange notes that routing through the Exchange is voluntary. The Exchange also believes that the proposed amendments are non-discriminatory because it applies uniformly to all Members.

In addition, volume-based rebates such as that proposed herein have been widely adopted by exchanges and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to: (i) The value to an exchange's market quality; (ii) associated higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns; and (iii) the introduction of higher volumes of orders into the price and volume discovery processes. The Exchange believes that the proposed tier is a reasonable, fair and equitable, and not an unfairly discriminatory allocation of fees and rebates, because it will provide Members with an additional incentive to reach certain thresholds on the Exchange.

(B) Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that this change represents a significant departure from previous pricing offered by the Exchange or from pricing offered by the Exchange's competitors. The proposed rates would apply uniformly to all Members, and Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets. Further, excessive fees would serve to impair an exchange's ability to compete for order flow and members rather than burdening competition. The Exchange believes that its proposal would not burden intramarket competition because the proposed rate would apply uniformly to all Members.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [18] and paragraph (f) of Rule 19b–4 thereunder.[19] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BatsEDGA–2017–23 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–BatsEDGA–2017–23. This file number should be included on the

[16] 15 U.S.C. 78f.

[17] 15 U.S.C. 78f(b)(4).

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f).

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–BatsEDGA–2017–23 and should be submitted on or before October 10, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–19809 Filed 9–15–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81582; File No. SR–NYSEAMER–2017–12]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 975NY and Rule 953NY

September 12, 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 September 1, 2017, NYSE American LLC (the ''Exchange'' or ''NYSE American'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I 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 Rule 975NY (Nullification and Adjustment of Options Transactions including Obvious Errors) and Rule 953NY (Trading Halts and Suspensions). 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 purpose of this filing is to amend Rule 975NY, relating to the adjustment and nullification of erroneous transactions, and Rule 953NY, regarding trading halts and suspensions. The Exchange's proposal is based on that of Bats BZX (''BATS''), which the Commission approved on July 6, 2017, and those that the other options exchanges intend to file.[4]

Background

The Exchange and other options exchanges adopted a harmonized rule related to the adjustment and nullification of erroneous options transactions, including a specific provision related to coordination in connection with large-scale events involving erroneous options transactions.[5] The Exchange believes that the changes the options exchanges implemented with the harmonized rule have led to increased transparency and finality with respect to the adjustment and nullification of erroneous options transactions. As part of the initial initiative, however, the Exchange and other options exchanges deferred a few specific matters for further discussion.[6] Specifically, as described in the Initial Filing, the Exchange and all other options exchanges have been working to further improve the review of potentially erroneous transactions as well as their subsequent adjustment by creating an objective and universal way to determine Theoretical Price in the event a reliable NBBO is not available. Because this initiative required additional exchange and industry discussion as well as additional time for development and implementation, the Exchange and the other options exchanges determined to proceed with the Initial Filing and to undergo an effort to complete any additional improvements to the applicable rule. In this filing, the Exchange proposes to adopt procedures that will lead to a more objective and uniform way to determine Theoretical Price in the event a reliable NBBO is not available. In addition to this change, the Exchange has proposed additional minor changes to its rules.

Calculation of Theoretical Price Using a Third Party Provider

Under the harmonized rule, when reviewing a transaction as potentially erroneous, the Exchange needs to first determine the ''Theoretical Price'' of the option, *i.e.,* the Exchange's estimate of the correct market price for the option. Pursuant to Rule 975NY, if the

[20] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release Nos. 81084 (July 6, 2017), 82 FR 32216 (July12, 2017) (''BATS Approval Order''); 80709 (May 17, 2017), 82 FR 23684 (May 23, 2017) (''Notice of BATS Filing'') (SR–BatsBZX–2017–35). *See also* Securities Exchange Act Release No. 81348 (August 8, 2017), 82 FR 37910 (August 14, 2017) (SR–BX–2017–038) (immediately effective filing based on BATS Approval Order).

[5] *See* Securities Exchange Act Release No. 74921 (May 8, 2015), 80 FR 27816 (May 14, 2015) (SR–NYSEMKT–2015–39) (the ''Initial Filing'').

[6] For example, the Exchange, along with other options exchanges that offer complex orders on their options platforms, recently filed proposals related to rules for handling the adjustment and nullification of erroneous complex order transactions, which proposals were approved by the Commission or filed on an immediately effective basis. *See* Securities Exchange Act Release Nos. 80040 (February 14, 2017), 82 FR 11248 (February 21, 2017) (granting approval of CBOE proposal related to the nullification and adjustment of complex orders) (SR–CBOE–2016–088); 80497 (April 20, 2017), 82 FR 19290 (April 26, 2017) (notice of filing and immediate effectiveness of Exchange proposal related to the nullification and adjustment of complex orders) (SR–NYSEMKT–2017–22).

applicable option series is traded on at least one other options exchange, then the Theoretical Price of an option series is the last national best bid (''NBB'') just prior to the trade in question with respect to an erroneous sell transaction or the last national best offer (''NBO'') just prior to the trade in question with respect to an erroneous buy transaction unless one of the exceptions described below exists. Thus, whenever the Exchange has a reliable NBB or NBO, as applicable, just prior to the transaction, the Exchange uses this NBB or NBO as the Theoretical Price.

The Rule also contains various provisions governing specific situations where the NBB or NBO is not available or may not be reliable. Specifically, the Rule identifies situations in which there are no quotes or no valid quotes for comparison purposes, when the national best bid or offer (''NBBO'') is determined to be too wide to be reliable, and at the open of trading on each trading day. In each of these circumstances because the NBB or NBO is not available or is deemed to be unreliable, the Exchange determines the Theoretical Price. Under the current Rule, when determining Theoretical Price, Exchange personnel generally consult and refer to data such as the prices of related series, especially the closest strikes in the option in question. Exchange personnel may also take into account the price of the underlying security and the volatility characteristics of the option as well as historical pricing of the option and/or similar options. Although the Rule is administered by experienced personnel and the Exchange believes the process is currently appropriate, the Exchange recognizes that it is also subjective and could lead to disparate results for a transaction that spans multiple options exchanges.

The Exchange proposes new Commentary .06 to specify how the Exchange will determine Theoretical Price when required by sub-paragraphs (b)(1)–(3) of the Rule (*i.e.,* at the open, when there are no valid quotes or when there is a wide quote). In particular, the Exchange has been working with other options exchanges to identify and select a reliable third party vendor (''TP Provider'') that would provide the Theoretical Price to the Exchange whenever one or more transactions is under review pursuant to Rule 975NY and the NBBO is unavailable or deemed unreliable pursuant to Rule 975NY(b). The Exchange and other options exchanges have selected CBOE Livevol, LLC (''Livevol'') as the TP Provider, as described below.

Pursuant to proposed Commentary .06, when the Exchange must determine Theoretical Price pursuant to the sub-paragraphs (b)(1)–(3) of the Rule, the Exchange will request the Theoretical Price from the third party vendor to which the Exchange and all other options exchanges have subscribed. Thus, as set forth in this proposed language, Theoretical Price would be provided to the Exchange by the TP Provider on request and not through a streaming data feed.[7] This proposed language would also make clear that the Exchange and all other options exchanges will use the same TP Provider. As noted above, the proposed TP Provider selected by the Exchange and other options exchanges is Livevol. The Exchange proposes to establish this selection in proposed paragraph (d) to Commentary .06. As such, the Exchange would file a rule proposal and would provide notice to the options industry of any proposed change to the TP Provider. The Exchange and other options exchanges have selected Livevol as the proposed TP Provider after diligence into various alternatives. Livevol has, since 2009, been the options industry leader in providing equity and index options market data and analytics services.[8] The Exchange believes that Livevol has established itself within the options industry as a trusted provider of such services and notes that it and all other options exchanges already subscribe to various Livevol services. In connection with this proposal, Livevol will develop a new tool based on its existing technology and services that will supply Theoretical Price to the Exchange and other options exchanges upon request. The Theoretical Price tool will leverage current market data and surrounding strikes to assist in a relative value pricing approach to generating a Theoretical Price. When relative value methods are incapable of generating a valid Theoretical Price, the Theoretical Price tool will utilize historical trade and quote data to calculate Theoretical Price.

Because the purpose of the proposal is to move away from a subjective determination by Exchange personnel when the NBBO is unavailable or unreliable, the Exchange intends to use the Theoretical Price provided by the TP Provider in all such circumstances. However, the Exchange believes it is necessary to retain the ability to contact the TP Provider if it believes that the Theoretical Price provided is fundamentally incorrect and to determine the Theoretical Price in the limited circumstance of a systems issue experienced by the TP Provider, as described below.

As proposed, to the extent an Official[9] of the Exchange believes that the Theoretical Price provided by the TP Provider is fundamentally incorrect and cannot be used consistent with the maintenance of a fair and orderly market, the Official shall contact the TP Provider to notify the TP Provider of the reason the Official believes such Theoretical Price is inaccurate and to request a review and correction of the calculated Theoretical Price. For example, if an Official received from the TP Provider a Theoretical Price of $80 in a series that the Official might expect to be instead in the range of $8 to $10 because of a recent corporate action in the underlying, the Official would request that the TP Provider review and confirm its calculation and determine whether it had appropriately accounted for the corporate action. In order to ensure that other options exchanges that may potentially be relying on the same Theoretical Price that the Official believes to be incorrect, the Exchange also proposes to promptly provide notice to other options exchanges that the TP Provider has been contacted to review and correct the calculated Theoretical Price at issue and to include a brief explanation of the reason for the request.[10] Although not directly addressed by the proposed rule, the Exchange expects that all other options exchanges once in receipt of this notification would await the determination of the TP Provider and would use the corrected price as soon as it is available. The Exchange further notes that it expects the TP Provider to cooperate with, but to be independent of, the Exchange and other options exchanges.[11]

[7] Though the Exchange and other options exchanges considered a streaming feed, it was determined that it would be more feasible to develop and implement an on demand service and that such a service would satisfy the goals of the initiative.

[8] The Exchange notes that in 2015, Livevol was acquired by CBOE Holdings, Inc., the ultimate parent company of the Chicago Board Options Exchange (''CBOE'') and C2 Options Exchange (''C2'').

[9] For purposes of the Rule, an Official is an Officer of the Exchange or such other employee designee of the Exchange that is trained in the application of Rule 975NY.

[10] *See* proposed paragraph (b) to Commentary .06.

[11] The Exchange expects any TP Provider selected by the Exchange and other options exchanges to act independently in its determination and calculation of Theoretical Price. With respect to Livevol specifically, the Exchange again notes that Livevol is a subsidiary of CBOE Holdings, Inc., which is also the ultimate parent company of multiple options exchanges. The Exchange expects Livevol to calculate Theoretical Price independent of its affiliated exchanges in the same way it will calculate Theoretical Price independent of non-affiliated exchanges.

The Exchange believes that the proposal to allow an Exchange Official to contact the TP Provider if he or she believes the provided Theoretical Price is fundamentally incorrect is necessary, particularly because the Exchange and other options exchanges will be using the new process for the first time.[12] Although the exchanges have conducted thorough diligence with respect to Livevol as the selected TP Provider and would do so with any potential replacement TP Provider, the Exchange is concerned that certain scenarios could arise where the Theoretical Price generated by the TP Provider does not take into account relevant factors and would result in an unfair result for market participants involved in a transaction. The Exchange notes that if such situations do indeed arise, to the extent practicable the Exchange would also work with the TP Provider and other options exchanges to improve the TP Provider's calculation of Theoretical Price in future situations. For instance, if the Exchange determines that a particular type of corporate action is not being appropriately captured by the TP Provider when such provider is generating Theoretical Price, while the Exchange believes that it needs the ability to request a review and correction of the Theoretical Price in connection with a specific review in order to provide a timely decision to market participants, the Exchange would share information regarding the specific situation with the TP Provider and other options exchanges in an effort to improve the Theoretical Price service for future use. The Exchange notes that it does not anticipate needing to rely on this provision frequently, if at all, but believes the provision is necessary nonetheless to best prepare for all potential circumstances.

Pursuant to proposed paragraph (c) to Commentary .06, an Official of the Exchange may determine the Theoretical Price if the TP Provider has experienced a systems issue that has rendered its services unavailable to accurately calculate Theoretical Price and such issue cannot be corrected in a timely manner. The Exchange notes that it does not anticipate needing to rely on this provision frequently, if at all, but believes the provision is necessary nonetheless to best prepare for all potential circumstances. Further, consistent with existing text in Rule 975NY(e)(4), the Exchange has not proposed a specific time by which the service must be available in order to be considered timely.[13] The Exchange expects that it would await the TP Provider's services becoming available again so long as the Exchange was able to obtain information regarding the issue and the TP Provider had a reasonable expectation of being able to resume normal operations within the next several hours based on communications with the TP Provider. More specifically with respect to Livevol, Livevol has business continuity and disaster recovery procedures that will help to ensure that the Theoretical Price tool remains available or, in the event of an outage, that service is restored in a timely manner. The Exchange also notes that if a wide-scale event occurred, even if such event did not qualify as a ''Significant Market Event'' pursuant to Rule 975NY(e), and the TP Provider was unavailable or otherwise experiencing difficulty, the Exchange believes that it and other options exchanges would seek to coordinate to the extent possible. In particular, the Exchange and other options exchanges now have a process, administered by the Options Clearing Corporation, to invoke a discussion amongst all options exchanges in the event of any widespread or significant market events. The Exchange believes that this process could be used if there were an issue with the TP Provider.

The Exchange also proposes language in paragraph (d) of Commentary .06 to Rule 975NY to disclaim the liability of the Exchange and the TP Provider in connection with the proposed rule, the TP Provider's calculation of Theoretical Price, and the Exchange's use of such Theoretical Price. Specifically, the proposed rule would state that neither the Exchange, the TP Provider, nor any affiliate of the TP Provider (the TP Provider and its affiliates are referred to collectively as the ''TP Provider''), makes any warranty, express or implied, as to the results to be obtained by any person or entity from the use of the TP Provider pursuant to Commentary .06. The proposed rule would further state that the TP Provider does not guarantee the accuracy or completeness of the calculated Theoretical Price and that the TP Provider disclaims all warranties of merchantability or fitness for a particular purpose or use with respect to such Theoretical Price. Finally, the proposed Rule would state that neither the Exchange nor the TP Provider shall have any liability for any damages, claims, losses (including any indirect or consequential losses), expenses, or delays, whether direct or indirect, foreseen or unforeseen, suffered by any person arising out of any circumstance or occurrence relating to the use of such Theoretical Price or arising out of any errors or delays in calculating such Theoretical Price. This proposed language is modeled after existing language in Exchange Rules regarding ''reporting authorities'' that calculate indices.[14]

In connection with the proposed change described above, the Exchange proposes to modify Rule 975NY to state that the Exchange will rely on paragraph (b) and Commentary .06 when determining Theoretical Price.

No Valid Quotes—Market Participant Quoting on Multiple Exchanges

As described above, one of the times where the NBB or NBO is deemed to be unreliable for purposes of Theoretical Price is when there are no quotes or no valid quotes for the affected series. In addition to when there are no quotes, the Exchange does not consider the following to be valid quotes: (i) All quotes in the applicable option series published at a time where the last NBB is higher than the last NBO in such series (a ''crossed market''); (ii) quotes published by the Exchange that were submitted by either party to the transaction in question; and (iii) quotes published by another options exchange against which the Exchange has declared self-help. In recognition of today's market structure where certain participants actively provide liquidity on multiple exchanges simultaneously, the Exchange proposes to add a category of invalid quotes. Specifically, in order to avoid a situation where a market participant has established the market at an erroneous price on multiple exchanges, the Exchange proposes to consider as invalid the quotes in a series published by another options exchange if either party to the transaction in question submitted the quotes in the series representing such options exchange's best bid or offer. Thus, similar to being able to ignore for purposes of the Rule the quotes published by the Exchange if submitted by either party to the transaction in question, the Exchange would be able to ignore for purposes of the rule

[12] To the extent the TP Provider has been contacted by an Official of the Exchange, reviews the Theoretical Price provided but disagrees that there has been any error, then the Exchange would be bound to use the Theoretical Price provided by the TP Provider.

[13] In the context of a Significant Market Event, the Exchange may determine, ''in consultation with other options exchanges . . . that timely adjustment is not feasible due to the extraordinary nature of the situation.'' *See* Rule 975NY(e)(4).

[14] *See, e.g.,* Rule 914F (Limitation on Exchange Liability), which relates to index options potentially listed and traded on the Exchange and disclaims liability for a reporting authority and their affiliates.

quotations on other options exchanges by that same market participant.

In order to continue to apply the Rule in a timely and organized fashion, however, the Exchange proposes to initially limit the scope of this proposed provision in two ways in new paragraph (C) to Rule 975NY(b)(2).[15] First, because the process will take considerable coordination with other options exchanges to confirm that the quotations in question on an away options exchange were indeed submitted by a party to a transaction on the Exchange, the Exchange proposes to limit this provision to apply to up to twenty-five (25) total options series (*i.e.,* whether such series all relate to the same underlying security or multiple underlying securities). Second, the Exchange proposes to require the party that believes it established the best bid or offer on one or more other options exchanges to identify to the Exchange the quotes which were submitted by such party and published by other options exchanges. In other words, as proposed, the burden will be on the party seeking that the Exchange disregard their quotations on other options exchanges to identify such quotations. In turn, the Exchange will verify with such other options exchanges that such quotations were indeed submitted by such party.[16]

Below are examples of both the current rule and the rule as proposed to be amended.

Example 1—Current Rule, Member Erroneously Quotes on One Exchange

Assumptions

For purposes of this example, assume the following:

- A Member acting as a Market Maker on the Exchange (''Market Maker A'') is quoting in twenty series of options underlying security ABCD on the Exchange (and only the Exchange).
- Market Maker A makes an error in calculating the market for options on ABCD, and publishes quotes in all twenty series to buy options at $1.00 and to sell options at $1.05.
- In fact, options on ABCD in these series are nearly worthless and no other market participant is quoting in such series.
- Therefore, the NBBO in the twenty series at issue is $1.00 × $1.05 (with the Exchange representing the NBBO based on Market Maker A's quotes).
- Assume Member A immediately enters sell orders and executes against Market Maker A's quotes at $1.00.
- Assume Market Maker A submits to the Exchange a timely request for review of the trades with Member A as potentially erroneous transactions to buy.

Result

- Based on the Exchange's current rules, the Exchange would identify Market Maker A as a participant to the trades at issue and would consider Market Maker A's quotations invalid pursuant to Rule 975NY(b)(2).
- As there were no other valid quotes to use as a reference price, the Exchange would then determine Theoretical Price.
- Assume the Exchange determines a Theoretical Price of $0.05.
  - The execution price of $1.00 exceeds the $0.25 minimum amount set forth in the Exchange's table to determine whether an obvious error has occurred (*i.e.,* $0.05 + $0.25 = $0.30) so any execution at or above this price is an obvious error.
  - Accordingly, the executions in all series would be adjusted by the Exchange to executions at $0.20 per contract (Theoretical Price of $0.05 plus $0.15) to the extent the incoming orders submitted by Member A were non-Customer orders.
  - The executions in all series would be nullified to the extent the incoming orders submitted by Member A were Customer orders.

Example 2—Current Rule, Member Erroneously Quotes on Multiple Exchanges

Assumptions

For purposes of this example, assume the following:

- A Member acting as a Market Maker on the Exchange (''Market Maker A'') is quoting in twenty series of options underlying security ABCD on the Exchange and on a second exchange (''Away Exchange'').
- Market Maker A makes an error in calculating the market for options on ABCD, and publishes quotes on both the Exchange and the Away Exchange in all twenty series to buy options at $1.00 and to sell options at $1.05.
- In fact, options on ABCD in these series are nearly worthless and no other market participant is quoting in such series.
- Therefore, the NBBO in the twenty series at issue is $1.00 × $1.05 (with the Exchange and the Away Exchange representing the NBBO based on Market Maker A's quotes).
- Assume Member A immediately enters sell orders and executes against Market Maker A's quotes at $1.00.
- Assume Market Maker A submits to the Exchange and to the Away Exchange timely requests for review of the trades with Member A as potentially erroneous transactions to buy.

Result

- Based on the Exchange's current rules, the Exchange would identify Market Maker A as a participant to the trades at issue and would consider Market Maker A's quotations on the Exchange invalid pursuant to Rule 975NY(b)(2). The Exchange, however, would view the Away Exchange's quotations as valid, and would thus determine Theoretical Price to be $1.05 (*i.e.,* the NBO in the case of a potentially erroneous buy transaction).
- The execution price of $1.00 does not exceed the $0.25 minimum amount set forth in the Exchange's table to determine whether an obvious error has occurred (*i.e.,* $1.05 + $0.25 = $1.30) so any execution at or above this price is an obvious error.
- The transactions on the Exchange would not be nullified or adjusted.
- As the Exchange and all other options exchanges have identical rules with respect to the process described above, the transactions on the Away Exchange would not be nullified or adjusted.

Example 3—Proposed Rule, Member Erroneously Quotes on Multiple Exchanges[17]

Assumptions

- For purposes of this example, assume the following:
- A Member acting as a Market Maker on the Exchange (''Market Maker A'') is quoting in twenty series of options underlying security ABCD on the Exchange and on a second exchange (''Away Exchange'').[18]
- Market Maker A makes an error in calculating the market for options on ABCD, and publishes quotes on both the Exchange and the Away Exchange in all twenty series to buy options at $1.00 and to sell options at $1.05.
- In fact, options on ABCD in these series are nearly worthless and no other market participant is quoting in such series.

[15] In connection with proposed change, the Exchange proposes to re-format Rule 975NY(b)(2) to include sub-paragraphs (A)–(D), inclusive of the new rule text in proposed Rule 975NY(b)(2)(C).

[16] The Exchange notes that the proposed text of 975NY(b)(2)(C) differs slightly from BATS Rule 20.6(b)(2)(C), even though the substance of the proposed rule is the same. The Exchange believes its proposed rule text is easier to comprehend.

[17] The Exchange notes that its proposed rule will not impact the proposed handling of a request for review where a market participant is quoting only on the Exchange, thus, the Exchange has not included a separate example for such a fact-pattern.

[18] The Exchange notes that the proposed rule would operate the same if Market Maker A was quoting on more than two exchanges. The Exchange has limited the example to two exchanges for simplicity.

• Therefore, the NBBO in the twenty series at issue is $1.00 × $1.05 (with the Exchange and the Away Exchange representing the NBBO based on Market Maker A's quotes).

• Assume Member A immediately enters sell orders and executes against Market Maker A's quotes at $1.00.

• Assume Market Maker A submits to the Exchange and to the Away Exchange timely requests for review of the trades with Member A as potentially erroneous transactions to buy. At the time of submitting the requests for review to the Exchange and the Away Exchange, Market Maker A identifies to the Exchange the quotes on the Away Exchange as quotes also represented by Market Maker A (and to the Away Exchange, the quotes on the Exchange as quotes also represented by Market Maker A).

Result

• Based on the proposed rules, the Exchange would identify Market Maker A as a participant to the trades at issue and would consider Market Maker A's quotations on the Exchange invalid pursuant to Rule 975NY(b)(2).

• The Exchange and the Away Exchange would also coordinate to confirm that the quotations identified by Market Maker A on the other exchange were indeed Market Maker A's quotations. Once confirmed, each of the Exchange and the Away Exchange would also consider invalid the quotations published on the other exchange.

• As there were no other valid quotes to use as a reference price, the Exchange would then determine Theoretical Price.

• Assume the Exchange determines a Theoretical Price of $0.05.

○ The execution price of $1.00 exceeds the $0.25 minimum amount set forth in the Exchange's table to determine whether an obvious error has occurred (*i.e.,* $0.05 + $0.25 = $0.30) so any execution at or above this price is an obvious error.

○ Accordingly, the executions in all series would be adjusted by the Exchange to executions at $0.20 per contract (Theoretical Price of $0.05 plus $0.15) to the extent the incoming orders submitted by Member A were non-Customer orders.

○ The executions in all series would be nullified to the extent the incoming orders submitted by Member A were Customer orders.

• As the Exchange and all other options exchanges would have identical rules with respect to the process described above, as other options exchanges intend to adopt the same rule if the proposed rule is approved, the transactions on the Away Exchange would also be nullified or adjusted as set forth above.

• If this example was instead modified such that Market Maker A was quoting in 200 series rather than 20, the Exchange notes that Market Maker A could only request that the Exchange consider as invalid their quotations in 25 of those series on other exchanges. As noted above, the Exchange has proposed to limit the proposed rule to 25 series in order to continue to process requests for review in a timely and organized fashion in order to provide certainty to market participants. This is due to the amount of coordination that will be necessary in such a scenario to confirm that the quotations in question on an away options exchange were indeed submitted by a party to a transaction on the Exchange.

Obvious Error Panel, Appeals—Clean-Up Change

Rule 975NY(k)(1)(B) describes the procedure for appealing decisions relating to obvious errors. The current rule provides, in relevant part, that a ''request for review on appeal must be made via facsimile or email within thirty (30) minutes after the party making the appeal is given notification of the initial determination being appealed.'' The Exchange proposes to modify this rule to remove reference to ''facsimile,'' and allow that requests for appeal may only be made via email. The Exchanges believes this proposed change would update the rule to reflect current technology and add transparency to the rule text.

Trading Halts and Suspensions—Clarifying Change to Rule 953NY

Rule 953NY describes the Exchange's authority to declare trading halts in one or more options traded on the Exchange. Currently, Commentary .04 to Rule 953NY states that the Exchange shall nullify any transaction that occurs during a trading halt in the affected option on the Exchange. The Exchange proposes to add rule text providing that, with respect to equity options (including options overlaying Exchange Traded Funds (''ETFs'')), that it shall nullify any transaction that occurs during a regulatory halt as declared by the primary listing market for the underlying security. Current Commentary .03 to Rule 953NY defines a Regulatory Halt as one ''initiated by a regulatory authority in the primary market.'' The Exchange believes this change is necessary to distinguish a declared regulatory halt, where the underlying security should not be actively trading on any venue, from an operational issue on the primary listing exchange where the security may continue to trade on other trading venues. This proposed change would likewise be consistent with the rule of other options exchanges.[19]

Implementation

The Exchange will announce the operative date by Trader Update. The Exchange proposes to delay the operative date of this proposal to a date within ninety (90) days after the BATS Approval Order, dated July 6, 2017. The Exchange will announce the operative date in a Trader Update.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[20] in general, and furthers the objectives of Section 6(b)(5) of the Act,[21] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

As described above, the Exchange and other options exchanges are seeking to further modify their harmonized rules related to the adjustment and nullification of erroneous options transactions. The Exchange believes that the proposal to utilize a TP Provider in the event the NBBO is unavailable or unreliable will provide greater transparency and clarity with respect to the adjustment and nullification of erroneous options transactions. Particularly, the proposed changes seek to achieve consistent results for participants across U.S. options exchanges while maintaining a fair and orderly market, protecting investors and protecting the public interest. Thus, the Exchange believes that the proposal is consistent with Section 6(b)(5) of the Act[22] in that the proposed rule will foster cooperation and coordination with persons engaged in regulating and facilitating transactions.

The Exchange again reiterates that it has retained the standard of the current rule for most reviews of options transactions pursuant to Rule 975NY, which is to rely on the NBBO to determine Theoretical Price if such NBBO can reasonably be relied upon. The proposal to use a TP Provider when

[19] *See supra* note 4.

[20] 15 U.S.C. 78f(b).

[21] 15 U.S.C. 78f(b)(5).

[22] 15 U.S.C. 78f(b)(5).

the NBBO is unavailable or unreliable is consistent with Section 6(b)(5) of the Act [23] in that the proposed rule will foster cooperation and coordination with persons engaged in regulating and facilitating transactions by further reducing the possibility of disparate results between options exchanges and increasing the objectivity of the application of Rule 975NY. Further, the Exchange believes that the proposed rule is transparent with respect to the limited circumstances under which the Exchange will request a review and correction of Theoretical Price from the TP Provider, and has sought to limit such circumstances as much as possible. The Exchange notes that under the current Rule, Exchange personnel are required to determine Theoretical Price in certain circumstances and yet rarely do so because such circumstances have already been significantly limited under the harmonized rule (for example, because the wide quote provision of the harmonized rule only applies if the quote was narrower and then gapped but does not apply if the quote had been persistently wide). Thus, the Exchange believes it will need to request Theoretical Price from the TP Provider only in very rare circumstances and in turn, the Exchange anticipates that the need to contact the TP Provider for additional review of the Theoretical Price provided by the TP Provider will be even rarer. Similarly, the Exchange believes it is unlikely that an Exchange Official will ever be required to determine Theoretical Price, as such circumstance would only be in the event of a systems issue that has rendered the TP Provider's services unavailable and such issue cannot be corrected in a timely manner.

The Exchange also believes its proposal to adopt language in paragraph (d) of Commentary .06 to Rule 975NY to disclaim the liability of the Exchange and the TP Provider in connection with the proposed rule, the TP Provider's calculation of Theoretical Price, and the Exchange's use of such Theoretical Price is consistent with the Act. As noted above, this proposed language is modeled after existing language in Exchange Rules regarding ''reporting authorities'' that calculate indices,[24] and is consistent with Section 6(b)(5) of the Act [25] in that the proposed rule will foster cooperation and coordination with persons engaged in regulating and facilitating transactions.

As described above, the Exchange proposes a modification to the valid quotes provision to also exclude quotes in a series published by another options exchange if either party to the transaction in question submitted the orders or quotes in the series representing such options exchange's best bid or offer. The Exchange believes this proposal is consistent with Section 6(b)(5) of the Act [26] because the application of the rule will foster cooperation and coordination with persons engaged in regulating and facilitating transactions by allowing the Exchange to coordinate with other options exchanges to determine whether a market participant that is party to a potentially erroneous transaction on the Exchange established the market in an option on other options exchanges; to the extent this can be established, the Exchange believes such participant's quotes should be excluded in the same way such quotes are excluded on the Exchange. The Exchange also believes it is reasonable to limit the scope of this provision to twenty-five (25) series and to require the party that believes it established the best bid or offer on one or more other options exchanges to identify to the Exchange the quotes which were submitted by that party and published by other options exchanges. The Exchange believes these limitations are consistent with Section 6(b)(5) of the Act [27] because they will ensure that the Exchange is able to continue to apply the Rule in a timely and organized fashion, thus fostering cooperation and coordination with persons engaged in regulating and facilitating transactions and also removing impediments to and perfecting the mechanism of a free and open market and a national market system.

The proposed change to Rule 975NY(k)(1)(B), to remove reference to sending requests for appeal via facsimile, would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed change would update the rule to reflect current technology. This proposed change would also protect investors and the general public because it would add transparency to the rule text.

Finally, with respect to the proposed modification to the Exchange's trading halt rule, Rule 953NY, the Exchange believes that this proposal is consistent with Section 6(b)(5) of the Act [28] because it specifically provides for nullification where a trading halt exists with respect to an underlying security across the industry (*i.e.,* a regulatory halt) as distinguished from a situation where the primary exchange has experienced a technical issue but the underlying security continues to trade on other equities platforms. The Exchange notes that a similar provision already exists in the rules of certain other options exchanges, and thus, has been found to be consistent with the Act.[29]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change is consistent with Section (b)(8) of the Act [30] in that is does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act as explained below.

Importantly, the Exchange does not believe that the proposal will impose a burden on intermarket competition but rather that it will alleviate any burden on competition because it is the result of a collaborative effort by all options exchanges to further harmonize and improve the process related to the adjustment and nullification of erroneous options transactions. The Exchange does not believe that the rules applicable to such process is an area where options exchanges should compete, but rather, that all options exchanges should have consistent rules to the extent possible. Particularly where a market participant trades on several different exchanges and an erroneous trade may occur on multiple markets nearly simultaneously, the Exchange believes that a participant should have a consistent experience with respect to the nullification or adjustment of transactions. To that end, the selection and implementation of a TP Provider utilized by all options exchanges will further reduce the possibility that participants with potentially erroneous transactions that span multiple options exchanges are handled differently on such exchanges. Similarly, the proposed ability to consider quotations invalid on another options exchange if ultimately originating from a party to a potentially erroneous transaction on the Exchange represents a proposal intended to further foster cooperation by the options exchanges with respect to market events. The Exchange understands that all other options exchanges either have or intend to file proposals that are substantially similar to this proposal.

The Exchange does not believe that the proposed rule change imposes a

[23] *Id.*

[24] *See supra* note 14.

[25] 15 U.S.C. 78f(b)(5).

[26] *Id.*

[27] *Id.*

[28] *Id.*

[29] *See, e.g.,* BATs Approval Order, *supra* note 4; Interpretation and Policy .07 to CBOE Rule 6.3.

[30] 15 U.S.C. 78f(b)(8).

burden on intramarket competition because the proposed provisions apply to all market participants equally.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule 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 [31] and subparagraph (f)(6) of Rule 19b–4 thereunder.[32]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEAMER–2017–12 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMER–2017–12. 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–NYSEAMER–2017–12, and should be submitted on or before October 10, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–19711 Filed 9–15–17; 8:45 am]

BILLING CODE 8011–01–P

[31] 15 U.S.C. 78s(b)(3)(A)(iii).

[32] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[33] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81583; File No. SR–Phlx–2017–72]

Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Add a Missing Letter to Section IV, Part D of the Pricing Schedule

September 12, 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 September 1, 2017, NASDAQ PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to add a missing letter to Section IV, Part D of the Pricing Schedule.

The text of the proposed rule change is set forth below. Proposed new language is italicized.

* * * * *

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

NASDAQ PHLX LLC PRICING SCHEDULE

THE EXCHANGE CALCULATES FEES ON A TRADE DATE BASIS.

POLICY FOR AMENDING BILLING INFORMATION: CORRECTIONS SUBMITTED AFTER TRADE DATE AND PRIOR TO THE ISSUANCE OF AN INVOICE BY THE EXCHANGE MUST BE SUBMITTED TO THE EXCHANGE IN WRITING AND MUST BE ACCOMPANIED BY SUPPORTING DOCUMENTATION. ONLY MEMBERS MAY SUBMIT TRADE CORRECTIONS.

ALL BILLING DISPUTES MUST BE SUBMITTED TO THE EXCHANGE IN WRITING AND MUST BE ACCOMPANIED BY SUPPORTING DOCUMENTATION. ALL DISPUTES MUST BE SUBMITTED NO LATER THAN SIXTY (60) DAYS AFTER RECEIPT OF A BILLING INVOICE, EXCEPT FOR DISPUTES CONCERNING NASDAQ PSX FEES, PROPRIETARY DATA FEED FEES AND CO-LOCATION SERVICES FEES. THE EXCHANGE CALCULATES FEES ON A TRADE DATE BASIS. ONLY MEMBERS MAY SUBMIT BILLING DISPUTES.

* * * * *

IV. Other Transaction Fees

* * * * *

D. Options Regulatory Fee

$0.0045 per contract side

The Options Regulatory Fee (''ORF'') is assessed by Phlx to each Phlx member for options transactions cleared by The Options Clearing Corporation (''OCC'') in the Customer range where: (1) the execution occurs on Phlx or (2) the execution occurs on another exchange and is cleared by a Phlx member. The ORF is collected by OCC on behalf of Phlx from (1) Phlx *c*learing members for all Customer transactions they clear or (2) non-members for all Customer transactions they clear that were executed on Phlx. Phlx uses reports from OCC when assessing and collecting ORF. The Exchange will notify members via an Options Trader Alert of any change in the amount of the fee at least 30 calendar days prior to the effective date of the change.

* * * * *

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange recently filed a proposal to amend the Exchange's Options Regulatory Fee at Section IV, Part D of the Pricing Schedule.[3] In that proposal, the Exchange inadvertently forgot to add the ''c'' in the word ''clearing'' in the following sentence: ''The ORF is collected by OCC on behalf of Phlx from (1) Phlx learing members for all Customer transactions they clear or (2) non-members for all Customer transactions they clear that were executed on Phlx. Phlx uses reports from OCC when assessing and collecting ORF.'' The Exchange is filing this proposed rule change to add the ''c'' in the word ''clearing'' to clarify the sentence.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Section 6(b)(5) of the Act,[5] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by clarifying the rule text to make clear its intended meaning.

The Exchange proposes to correct the typographical error in the rule text of the Pricing Schedule related to the manner in which the Exchange collects the Options Regulatory Fee. The Exchange believes that clarifying the rule text is consistent with the Act in that it will protect investors and the public interest by correcting the spelling of a word to make clear the intended meaning.

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 a non-substantive amendment to correct a typographical error related to the spelling of a word in the rule text.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[6] and subparagraph (f)(6) of Rule 19b–4 thereunder.[7]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[8] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[9] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that waiver of the 30-day operative delay would avoid potential confusion that may be caused from the omission of the letter ''c'' from the word ''clearing.'' Based on the foregoing, the Commission believes the waiver of the operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.[10]

[3] *See* Securities and Exchange Act Release No. 81343 (August 8, 2017), 82 FR 37964 (August 14, 2017) (SR–Phlx–2017–54).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A)(iii).

[7] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 240.19b–4(f)(6)(iii).

[10] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2017–72 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2017–72. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2017–72, and should be submitted on or before October 10, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–19708 Filed 9–15–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81603; File No. SR–NYSEARCA–2017–102]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend NYSE Arca Rule 7.35–E, NYSE Arca Rule 7.31–E and NYSE Arca Rule 7.23–E

September 13, 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 August 31, 2017, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend (i) NYSE Arca Rule 7.35–E (Auctions) to provide that Market-on-Open (''MOO''), Limit-on-Open (''LOO'') Orders, and Imbalance Offset (''IO'') Orders would be cancelled if the Re-Opening Time for a Trading Halt Auction would be in the last ten minutes of trading before the end of Core Trading Hours; (ii) NYSE Arca Rule 7.31–E (Orders and Modifiers) regarding IO Orders; and (iii) NYSE Arca Rule 7.23–E (Obligations of Market Makers) to amend obsolete cross references. The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend (i) NYSE Arca Rule 7.35–E (Auctions) (''Rule 7.35–E'') to provide that MOO, LOO, and IO Orders would be cancelled if the Re-Opening Time for a Trading Halt Auction would be in the last ten minutes of trading before the end of Core Trading Hours; (ii) NYSE Arca Rule 7.31–E (Orders and Modifiers) (''Rule 7.31–E'') regarding IO Orders; and (iii) NYSE Arca Rule 7.23–E (Obligations of Market Makers) (''Rule 7.23–E'') to amend obsolete cross references.

Rule 7.35–E(e)(10) provides that if the Reopening Time for a Trading Halt Auction would be in the last ten minutes of trading before the end of Core Trading Hours, the Exchange will not conduct a Trading Halt Auction in that security, will not transition to continuous trading, will remain paused, and will conduct a Closing Auction in such security as provided for in Rule 7.35–E(d). Rule 7.35–E(e)(10)(A) further provides that in such circumstances, MOO Orders, LOO Orders, and IO Orders entered during the pause or halt will not participate in the Closing Auction and will expire at the end of the Core Trading Session.

The Exchange proposes to amend Rule 7.35–E(e)(10)(A) to provide that in such circumstances, MOO Orders, LOO Orders, and IO Orders entered during the pause or halt will not participate in the Closing Auction and will be cancelled. This proposed rule change is not intended to make any functional changes to when MOO Orders, LOO Orders, and IO Orders are eligible to trade at the Exchange; these orders still would not participate in a Closing

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

Auction. However, as proposed, if a trading pause or halt extends past 3:50 p.m., these orders would be cancelled back to the entering firm at 3:50 p.m. instead of remaining on the Exchange Book and expiring after Core Trading Hours concludes. The Exchange believes this proposed change would provide ETP Holders with more timely information regarding the status of pending orders.

The Exchange also proposes to amend Rule 7.31–E(c)(5), which defines the term IO Order, to provide that such orders would be available only to ETP Holders using Pillar phase II protocols.[4] The Exchange previously filed a proposed rule change describing that when it implements Pillar phase II protocols, the Exchange will be able to support new order functionality.[5] Because there will be a period when both Pillar phase I and Pillar phase II protocols will be available to ETP Holders, the Exchange amended its rules to describe how an ETP Holder's orders would behave depending on the protocol that an ETP Holder chooses to use. Because IO Orders would be available only via Pillar phase II protocols, the Exchange proposes to amend Rule 7.31–E(c)(5) to specify this requirement.

The Exchange proposes to implement the proposed amendments to Rules 7.35–E and 7.31–E at the same time that it implements previously-approved changes to Rule 7.35–E and 7.31–E, which the Exchange previously stated that it anticipated implementing in the third quarter of 2017.[6] As described in greater detail in the Reopening Filing, the Exchange amended its rules relating to the reopening of trading in conjunction with the twelfth amendment to the Regulation NMS Plan to Address Extraordinary Market Volatility (''Plan''), which the Commission approved.[7] The Exchange proposes to implement the changes described in the Reopening Filing, as amended by this proposed rule change, at the same time that the twelfth amendment to the Plan is implemented, which, subject to technology changes and effectiveness of the extension of the implementation date for the changes made in the twelfth amendment to the Plan, is anticipated to be in the fourth quarter of 2017.

The Exchange also proposes to amend NYSE Arca Equities Rules 7.23–E(a)(1)(B)(iii) and (iv) to remove obsolete cross references and to reflect that the applicable percentages are based on how a security is designated under the Plan.[8] Rule 7.23–E(a)(1)(B) sets forth among other things, the obligation of Market Makers to maintain a bid (offer) not more than the ''Designated Percentage'' away from the then current National Best Bid (Offer) (''NBBO'') and if the NBBO changes such that the Market Maker's bid/offer is more than the ''Defined Limit'' away from the NBBO, the Market Maker must enter an updated bid (offer). The Exchange proposes to amend Rule 7.23–E(a)(1)(B)(iii) and Rule 7.23–E(a)(1)(B)(iv) to remove cross-references to Rule 7.11–E and instead use Plan definitions for specifying which securities are subject to which ''Designated Percentages'' and ''Defined Limits.'' Accordingly, as proposed:

- The phrase ''securities subject to Rule 7.11–E(a)(i)'' would be replaced with the phrases ''Tier 1 NMS Stocks under the Limit Up-Limit Down Plan'' or ''Tier 1 NMS Stocks;''
- the phrase ''securities subject to Rule 7.11–E(a)(ii)'' would be replaced with the phrases ''Tier 2 NMS Stocks under the Limit Up-Limit Down Plan with a price equal to or greater than $1.00'' or ''Tier 2 NMS Stocks with a price equal to or greater than $1.00;''
- the phrase ''securities subject to Rule 7.11–E(a)(iii)'' would be replaced with the phrase ''Tier 2 NMS Stocks with a price lower than $1.00;'' and
- the phrase ''when Rule 7.11–E is not in effect'' would be deleted.

Because rights and warrants are not subject to the Plan, but are subject to market maker quoting requirements, the Exchange proposes to provide that for purposes of Rule 7.23–E(a)(1)(B)(iii) and (iv), rights and warrants would be considered Tier 2 NMS Stocks. This proposed rule text is consistent with current practice and the now-obsolete cross references to Rule 7.11.[9] The Exchange also proposes a non-substantive amendment to Rules 7.23–E(a)(1)(B)(iii) and (iv) to change references from Pacific Time to Eastern Time.

The Exchange also proposes a non-substantive amendment to Rule 7.23–E(a)(2) to replace the current reference to ''Rule 4.1–E'' with a reference to ''the provisions of Rule 15c3–1 under the Securities Exchange Act of 1934.'' Rule 4.1–E requires ETP Holders to maintain minimum net capital in accordance with the provisions of Rule 15c3–1 under the Act. Accordingly, by referencing Rule 15c3–1 under the Act instead of Rule 4.1–E, the proposed rule change to Rule 7.23–E(a)(2) would not make any substantive changes to the rule. This proposed rule change is based on NYSE American Rule 7.23E(a)(2).

The Exchange proposes that the amendments to Rule 7.23–E would be operative upon the operative date of this proposed rule change.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[10] in general, and furthers the objectives of Section 6(b)(5),[11] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed amendments to Rule 7.35–E would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed rule change would provide ETP Holders with timely information regarding the status of MOO Orders, LOO Orders, and IO Orders, which are intended to participate in a Trading Halt Auction, if there is a trading pause or halt that extends past the last ten minutes of trading of Core Trading Hours. In such

[4] The Exchange established IO Orders in the Reopening Filing, *infra* note 5 [sic].

[5] *See* Securities Exchange Act Release No. 79688 (December 23, 2016), 82 FR 96534 (December 30, 2016) (SR–NYSEArca–2016–170) (Notice of Filing). The Pillar phase II protocols were implemented on August 21, 2017. *See* Trader Update dated August 17, 2017, available here: *https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/Pillar_Update_NYSE_Arca_August_17_2017.pdf.*

[6] *See* Securities Exchange Act Release No. 79846 (January 19, 2017), 82 FR 8548 (January 26, 2017) (SR–NYSEArca–2016–130) (Approval Order) (the ''Reopening Filing'').

[7] *See* Securities Exchange Act Release No. 79845 (January 19, 2017), 82 FR 8551 (January 26, 2017) (File No. 4–631) (Order approving twelfth amendment to the Plan).

[8] The Exchange's affiliated equities exchange has adopted a similar change to its rules. *See* Securities Exchange Act Release No. 80577 (May 2, 2017), 82 FR 21446 (May 8, 2017) (SR–NYSEMKT–2017–04) (Order approving NYSE American LLC (''NYSE American'') Rule 7.23E(a)(1)(B)(iii) and (iv)). The proposed rule changes are also based on Bats BZX, Inc. (''BZX'') Rule 11.8(d)(2)(D) and (E).

[9] Securities previously subject to Rule 7.11(a)(ii) were all NMS Stocks, other than securities included in the S&P 500® Index, Russell 1000® Index, and a pilot list of Exchange Traded Products, with a price equal to or greater than $1 and securities previously subject to Rule 7.11(a)(iii) were all NMS Stocks, other than securities included in the S&P 500® Index, Russell 1000® Index, and a pilot list of Exchange Traded Products, with a price less than $1.00. *See* Securities Exchange Act Release No. 64422 (May 6, 2011), 76 FR 27691 (May 12, 2011) (SR–NYSEArca–2011–26) (Notice of filing).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

case, because the Exchange would not be conducting a Trading Halt Auction, the Exchange would provide ETP Holders with more timely information about the status of their orders. The proposed rule change would not make any substantive differences regarding how such orders would execute on the Exchange. Accordingly, the proposed rule change is designed to enhance transparency.

The Exchange believes that the proposed amendment to Rule 7.31–E would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed rule change would provide transparency to ETP Holders regarding which communication protocol should be used for entering IO Orders.

The Exchange believes that the proposed amendments to Rule 7.23–E would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed rule change is designed to remove obsolete cross references. The proposed rule change is based on the rules of NYSE American and BZX.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change is not designed to address any competitive issues but rather to provide ETP Holders with more timely information about the status of orders intended for a Trading Halt Auction and which communication protocol to use for entering IO Orders. In addition, the proposed rule change is designed to remove obsolete cross references and is based on the rules of NYSE American and BZX.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[12] and Rule 19b–4(f)(6) thereunder.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEARCA–2017–102 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–2017–102. 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–2017–102 and should be submitted on or before October 10, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–19812 Filed 9–15–17; 8:45 am]

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[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81591; File No. SR–NASDAQ–2017–091]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change To List and Trade Shares of Calvert Ultra-Short Income NextShares™

September 13, 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 August 30, 2017, The NASDAQ Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit 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 list and trade under Nasdaq Rule 5745 (Exchange-Traded Managed Fund

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Shares (''NextShares'')) the common shares (''Shares'') of Calvert Ultra-Short Income NextShares™ (the ''Fund''), a series of Calvert Management Series (the ''CMS Trust'').[3]

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 list and trade the Shares of the Fund under Nasdaq Rule 5745, which governs the listing and trading of exchange-traded managed fund shares, as defined in Nasdaq Rule 5745(c)(1), on the Exchange.[4] The CMS Trust is registered with the Commission as an open-end investment company and has filed a registration statement on Form N–1A (''Registration Statement'') with the Commission. The Fund is a series of the CMS Trust and will be advised by an investment adviser (''Adviser'') registered under the Investment Advisers Act of 1940 (''Advisers Act''), as described below. The Fund will be actively managed and will pursue the principal investment strategies discussed below.[5]

The CMS Trust

The CMS Trust is registered with the Commission as an open-end investment company and has filed a Registration Statement with the Commission.[6]

Calvert Research and Management,[7] a wholly owned subsidiary of Eaton Vance Management, will be the Adviser to the Fund. The Adviser is not a registered broker-dealer, although it is affiliated with a broker-dealer. The Adviser has implemented and will maintain a fire wall with respect to its affiliated broker-dealer regarding access to information concerning the composition and/or changes to the Fund's portfolio.[8] In addition, personnel who make decisions on the Fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the open-end fund's portfolio.

In the event that (a) the Adviser registers as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser to the Fund is a registered broker-dealer or is affiliated with a broker-dealer, such adviser or sub-adviser will implement and will maintain a fire wall with respect to its relevant personnel and/or such broker-dealer affiliate, if applicable, regarding access to information concerning the composition and/or changes to the Fund's portfolio and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

Foreside Fund Services, LLC will be the principal underwriter and distributor of the Fund's Shares. State Street Bank and Trust Company will act as the accounting agent, custodian and transfer agent to the Fund. ICE Data Services will be the intraday indicative value (''IIV'') calculator to the Fund.

The Fund will be actively managed and will pursue the principal investment strategies described below.[9]

Calvert Ultra-Short Income NextShares™

The investment objective of the Fund is to seek to maximize income, to the extent consistent with preservation of capital, through investment in bonds and income-producing securities.

The Fund will seek to achieve its investment objective by investing, under normal circumstances, at least 80% of its net assets (including borrowings for investment purposes) in a portfolio of floating-rate debt securities (*e.g.,* corporate floating-rate securities) and debt securities with durations of less than or equal to one year. The Fund will typically invest at least 65% of its net assets in investment grade, U.S. dollar-denominated debt securities, as assessed at the time of purchase. The Fund will invest principally in bonds issued by U.S. corporations, the U.S. Government or its agencies, and U.S. Government-sponsored enterprises such as the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation. The Fund may also invest up to 25% of its net assets in foreign debt securities.

Creations and Redemptions of Shares

Shares will be issued and redeemed on a daily basis at the Fund's next-determined net asset value (''NAV'') [10] in specified blocks of Shares called ''Creation Units.'' A Creation Unit will consist of at least 25,000 Shares. Creation Units may be purchased and

[3] Except for the specific Fund information set forth below, this rule filing conforms to the rule filing, as modified by amendments 1 and 2 thereto, relating to the listing and trading on Nasdaq of the shares of 18 series of the Eaton Vance ETMF Trust and the Eaton Vance ETMF Trust II, as approved by the Commission in Securities Exchange Act Release No. 75499 (July 21, 2015) (SR–NASDAQ–2015–036).

[4] The Commission approved Nasdaq Rule 5745 in Securities Exchange Act Release No. 34–73562 (Nov. 7, 2014), 79 FR 68309 (Nov. 14, 2014) (SR–NASDAQ–2014–020).

[5] Additional information regarding the Fund will be available on a free public Web site for the Fund (*www.calvert.com* and/or *www.nextshares.com*) and in the Registration Statement for the Fund.

[6] *See* Post-Effective Amendment No. 86 to the Registration Statement on Form N–1A for CMS Trust dated July 20, 2017 (File Nos. 002–69565 and 811–03101). The description of the Fund and the Shares contained herein conform to the Registration Statement.

[7] The Commission has issued an order granting Eaton Vance Management, Eaton Vance ETMF Trust and Eaton Vance ETMF Trust II and certain affiliates exemptive relief under the Investment Company Act. *See* Investment Company Act Release No. 31361 (December 2, 2014) (File No. 812–14139) (the ''Order''). Because the Adviser is a wholly-owned subsidiary of Eaton Vance Management, it may rely this exemptive order with respect to the Fund.

[8] An investment adviser to an open-end fund is required to be registered under the Advisers Act. As a result, the Adviser, and its related personnel, are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[9] Additional information regarding the Fund will be available on a free public Web site for the Fund (*www.calvert.com* and/or *www.nextshares.com*) and in the Registration Statement for the Fund.

[10] As with other registered open-end investment companies, NAV generally will be calculated daily Monday through Friday as of the close of regular trading on the New York Stock Exchange, normally 4:00 p.m. Eastern Time. NAV will be calculated by dividing the Fund's net asset value by the number of Shares outstanding. Information regarding the valuation of investments in calculating the Fund's NAV will be contained in the Registration Statement for its Shares.

redeemed by or through ''Authorized Participants.'' [11] Purchases and sales of Shares in amounts less than a Creation Unit may be effected only in the secondary market, as described below, and not directly with the Fund.

The creation and redemption process for the Fund may be effected ''in kind,'' in cash, or in a combination of securities and cash. Creation ''in kind'' means that an Authorized Participant—usually a brokerage house or large institutional investor—purchases the Creation Unit with a basket of securities equal in value to the aggregate NAV of the Shares in the Creation Unit. When an Authorized Participant redeems a Creation Unit in kind, it receives a basket of securities equal in value to the aggregate NAV of the Shares in the Creation Unit.[12]

Composition File

As defined in Nasdaq Rule 5745(c)(3), the Composition File is the specified portfolio of securities and/or cash that the Fund will accept as a deposit in issuing a Creation Unit of Shares, and the specified portfolio of securities and/or cash that the Fund will deliver in a redemption of a Creation Unit of Shares. The Composition File will be disseminated through the NSCC once each business day before the open of trading in Shares on such day and also will be made available to the public each day on a free Web site.[13] Because the Fund seeks to preserve the confidentiality of its current portfolio trading program, the Fund's Composition File generally will not be a pro rata reflection of the Fund's investment positions. Each security included in the Composition File will be a current holding of the Fund, but the Composition File generally will not include all of the securities in the Fund's portfolio or match the weightings of the included securities in the portfolio.

Securities that the Adviser is in the process of acquiring for the Fund generally will not be represented in the Fund's Composition File until their purchase has been completed. Similarly, securities that are held in the Fund's portfolio but in the process of being sold may not be removed from its Composition File until the sale program is substantially completed. When creating and redeeming Shares in kind, the Fund will use cash amounts to supplement the in-kind transactions to the extent necessary to ensure that Creation Units are purchased and redeemed at NAV. The Composition File also may consist entirely of cash, in which case it will not include any of the securities in the Fund's portfolio.[14]

Transaction Fees

All persons purchasing or redeeming Creation Units are expected to incur a transaction fee to cover the estimated cost to the Fund of processing the transaction, including the costs of clearance and settlement charged to it by NSCC or DTC, and the estimated trading costs (*i.e.,* brokerage commissions, bid-ask spread and market impact) to be incurred in converting the Composition File to or from the desired portfolio holdings. The transaction fee is determined daily and will be limited to amounts approved by the board of trustees of the Fund and determined by the Adviser to be appropriate to defray the expenses that the Fund incurs in connection with the purchase or redemption of Creation Units.

The purpose of transaction fees is to protect the Fund's existing shareholders from the dilutive costs associated with the purchase and redemption of Creation Units. Transaction fees may vary over time for the Fund depending on the estimated trading costs for its portfolio positions and Composition File, processing costs and other considerations. If the Fund specifies greater amounts of cash in its Composition File it may impose higher transaction fees. In addition, if the Fund's Composition File includes instruments that clear through DTC, it may impose higher transaction fees than if its Composition File consists solely of instruments that clear through NSCC, because DTC may charge more than NSCC in connection with Creation Unit transactions.[15] The transaction fees applicable to the Fund's purchases and redemptions on a given business day will be disseminated through the NSCC prior to the open of market trading on that day and also will be made available to the public each day on a free Web site.[16] In all cases, the transaction fees will be limited in accordance with the requirements of the Commission applicable to open-end management investment companies offering redeemable securities.

NAV-Based Trading

Because Shares will be listed and traded on the Exchange, Shares will be available for purchase and sale on an intraday basis. Shares will be purchased and sold in the secondary market at prices directly linked to the Fund's next-determined NAV using a new trading protocol called ''NAV-Based Trading.'' [17] All bids, offers and execution prices of Shares will be expressed as a premium/discount (which may be zero) to the Fund's next-determined NAV (*e.g.,* NAV − $0.01, NAV+$0.01). The Fund's NAV will be determined each business day, normally as of 4:00 p.m. Eastern Time. Trade executions will be binding at the time orders are matched on Nasdaq's facilities, with the transaction prices contingent upon the determination of NAV.

Trading Premiums and Discounts

Bid and offer prices for Shares will be quoted throughout the day relative to NAV. The premium or discount to NAV at which Share prices are quoted and transactions are executed will vary

[11] ''Authorized Participants'' will be either: (1) ''Participating parties,'' *i.e.,* brokers or other participants in the Continuous Net Settlement System (''CNS System'') of the National Securities Clearing Corporation (''NSCC''), a clearing agency registered with the Commission and affiliated with the Depository Trust Company (''DTC''), or (2) DTC participants, which in either case have executed participant agreements with the Fund's distributor and transfer agent regarding the creation and redemption of Creation Units. Investors will not have to be Authorized Participants in order to transact in Creation Units, but must place an order through and make appropriate arrangements with an Authorized Participant for such transactions.

[12] In compliance with Nasdaq Rule 5745(b)(5), which applies to Shares based on an international or global portfolio, the application for the Order states that the Fund will comply with the federal securities laws in accepting securities for deposits and satisfying redemptions with securities, including that the securities accepted for deposits and the securities used to satisfy redemption requests are sold in transactions that would be exempt from registration under the Securities Act of 1933, as amended (15 U.S.C. 77a).

[13] The free public Web site containing the Composition File will be at *www.calvert.com* and/or *www.nextshares.com.*

[14] In determining whether the Fund will issue or redeem Creation Units entirely on a cash basis, the key consideration will be the benefit that would accrue to the Fund and its investors. For instance, in bond transactions, the Adviser may be able to obtain better execution for the Fund than Authorized Participants because of the Adviser's size, experience and potentially stronger relationships in the fixed-income markets.

[15] Authorized Participants that participate in the CNS System of the NSCC are expected to be able to use the enhanced NSCC/CNS process for effecting in-kind purchases and redemptions of ETFs (the ''NSCC Process'') to purchase and redeem Creation Units of the Fund if it limits the composition of its baskets to include only NSCC Process-eligible instruments (generally domestic equity securities and cash). Because the NSCC Process is generally more efficient than the DTC clearing process, NSCC is likely to charge the Fund less than DTC to settle purchases and redemptions of Creation Units.

[16] The free public Web site will be at *www.calvert.com* and/or *www.nextshares.com.*

[17] Aspects of NAV-Based Trading are protected intellectual property subject to issued and pending U.S. patents held by NextShares Solutions LLC (''NextShares Solutions''), a wholly owned subsidiary of Eaton Vance Corp. Nasdaq has entered into a license agreement with NextShares Solutions to allow for NAV-Based Trading on the Exchange of exchange-traded managed funds that have themselves entered into license agreements with NextShares Solutions.

depending on market factors, including the balance of supply and demand for Shares among investors, transaction fees and other costs in connection with creating and redeeming Creation Units of Shares, the cost and availability of borrowing Shares, competition among market makers, the Share inventory positions and inventory strategies of market makers, the profitability requirements and business objectives of market makers, and the volume of Share trading. Reflecting such market factors, prices for Shares in the secondary market may be above, at or below NAV. If the Fund has higher transaction fees, it may trade at wider premiums or discounts to NAV than if it had lower transaction fees, reflecting the added costs to market makers of managing their Share inventory positions through purchases and redemptions of Creation Units.

Because making markets in Shares will be simple to manage and low risk, competition among market makers seeking to earn reliable, low-risk profits should enable the Shares to routinely trade at tight bid-ask spreads and narrow premiums/discounts to NAV. As noted below, the Fund will maintain a public Web site that will be updated on a daily basis to show current and historical trading spreads and premiums/discounts of Shares trading in the secondary market.[18]

Transmitting and Processing Orders. Member firms will utilize certain existing order types and interfaces to transmit Share bids and offers to Nasdaq, which will process Share trades like trades in shares of other listed securities.[19] In the systems used to transmit and process transactions in Shares, the Fund's next-determined NAV will be represented by a proxy price (*e.g.,* 100.00) and a premium/discount of a stated amount to the next-determined NAV to be represented by the same increment/decrement from the proxy price used to denote NAV (*e.g.,* NAV − $0.01 would be represented as 99.99; NAV+$0.01 as 100.01).

To avoid potential investor confusion, Nasdaq will work with member firms and providers of market data services to seek to ensure that representations of intraday bids, offers and execution prices of Shares that are made available to the investing public follow the ''NAV − $0.01/NAV+$0.01'' (or similar) display format. All Shares listed on the Exchange will have a unique identifier associated with their ticker symbol, which would indicate that the Shares are traded using NAV-Based Trading. Nasdaq makes available to member firms and market data services certain proprietary data feeds that are designed to supplement the market information disseminated through the consolidated tape (''Consolidated Tape''). Specifically, the Exchange will use the NASDAQ Basic and NASDAQ Last Sale data feeds to disseminate intraday price and quote data for Shares in real time in the ''NAV − $0.01/NAV+$0.01'' (or similar) display format. Member firms could use the NASDAQ Basic and NASDAQ Last Sale data feeds to source intraday Share prices for presentation to the investing public in the ''NAV − $0.01/NAV+$0.01'' (or similar) display format. Alternatively, member firms could source intraday Share prices in proxy price format from the Consolidated Tape and other Nasdaq data feeds (*e.g.,* Nasdaq TotalView and Nasdaq Level 2) and use a simple algorithm to convert prices into the ''NAV − $0.01/NAV+$0.01'' (or similar) display format. As noted below, prior to the commencement of trading in the Fund, the Exchange will inform its members in an Information Circular of the identities of the specific Nasdaq data feeds from which intraday Share prices in proxy price format may be obtained.

Intraday Reporting of Quotes and Trades. All bids and offers for Shares and all Share trade executions will be reported intraday in real time by the Exchange to the Consolidated Tape[20] and separately disseminated to member firms and market data services through the Exchange data feeds listed above. The Exchange will also provide the member firms participating in each Share trade with a contemporaneous notice of trade execution, indicating the number of Shares bought or sold and the executed premium/discount to NAV.[21]

Final Trade Pricing, Reporting and Settlement. All executed Share trades will be recorded and stored intraday by Nasdaq to await the calculation of the Fund's end-of-day NAV and the determination of final trade pricing. After the Fund's NAV is calculated and provided to the Exchange, Nasdaq will price each Share trade entered into during the day at the Fund's NAV plus/minus the trade's executed premium/discount. Using the final trade price, each executed Share trade will then be disseminated to member firms and market data services via an FTP file to be created for exchange-traded managed funds and confirmed to the member firms participating in the trade to supplement the previously provided information to include final pricing.[22] After the pricing is finalized, Nasdaq will deliver the Share trading data to NSCC for clearance and settlement, following the same processes used for the clearance and settlement of trades in other exchange-traded securities.

Availability of Information

Prior to the commencement of market trading in Shares, the Fund will be required to establish and maintain a public Web site through which its current prospectus may be downloaded.[23] The Web site will include additional Fund information updated on a daily basis, including the prior business day's NAV, and the following trading information for such business day expressed as premiums/discounts to NAV: (a) Intraday high, low, average and closing prices of Shares in Exchange trading; (b) the midpoint of the highest bid and lowest offer prices as of the close of Exchange trading, expressed as a premium/discount to NAV (the ''Closing Bid/Ask Midpoint''); and (c) the spread between highest bid and lowest offer prices as of the close of Exchange trading (the ''Closing Bid/Ask Spread.''). The Web site will also contain charts showing the frequency distribution and range of values of trading prices, Closing Bid/Ask Midpoints and Closing Bid/Ask Spreads over time.

The Composition File will be disseminated through the NSCC before the open of trading in Shares on each business day and also will be made available to the public each day on a free Web site.[24] Consistent with the

[18] The free public Web site will be at *www.calvert.com* and/or *www.nextshares.com.*

[19] As noted below, all orders to buy or sell Shares that are not executed on the day the order is submitted will be automatically cancelled as of the close of trading on such day. Prior to the commencement of trading in the Fund, the Exchange will inform its members in an Information Circular of the effect of this characteristic on existing order types.

[20] Due to systems limitations, the Consolidated Tape will report intraday execution prices and quotes for Shares using a proxy price format. As noted, Nasdaq will separately report real-time execution prices and quotes to member firms and providers of market data services in the ''NAV − $0.01/NAV+$0.01'' (or similar) display format, and otherwise seek to ensure that representations of intraday bids, offers and execution prices for Shares that are made available to the investing public follow the same display format.

[21] All orders to buy or sell Shares that are not executed on the day the order is submitted will be automatically cancelled as of the close of trading on such day.

[22] File Transfer Protocol (''FTP'') is a standard network protocol used to transfer computer files on the Internet. Nasdaq will arrange for the daily dissemination of an FTP file with executed Share trades to member firms and market data services.

[23] The free public Web site will be at *www.calvert.com.*

[24] The free public Web site containing the Composition File will be at *www.calvert.com* and/or *www.nextshares.com.*

disclosure requirements that apply to traditional open-end investment companies, a complete list of current Fund portfolio positions will be made available at least once each calendar quarter, with a reporting lag of not more than 60 days. The Fund may provide more frequent disclosures of portfolio positions at its discretion.

Reports of Share transactions will be disseminated to the market and delivered to the member firms participating in the trade contemporaneous with execution. Once the Fund's daily NAV has been calculated and disseminated, Nasdaq will price each Share trade entered into during the day at the Fund's NAV plus/minus the trade's executed premium/discount. Using the final trade price, each executed Share trade will then be disseminated to member firms and market data services via an FTP file to be created for exchange-traded managed funds and confirmed to the member firms participating in the trade to supplement the previously provided information to include final pricing.

Information regarding NAV-based trading prices, best bids and offers for Shares, and volume of Shares traded will be continuously available on a real-time basis throughout each trading day on brokers' computer screens and other electronic services.

Initial and Continued Listing

Shares will conform to the initial and continued listing criteria as set forth under Nasdaq Rule 5745. A minimum of 50,000 Shares and no less than two Creation Units of the Fund will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily (on each day the New York Stock Exchange is open for trading) and provided to Nasdaq via the Mutual Fund Quotation Service (''MFQS'') by the fund accounting agent. As soon as the NAV is entered into MFQS, Nasdaq will disseminate the NAV to market participants and market data vendors via the Mutual Fund Dissemination Service (''MFDS'') so all firms will receive the NAV per Share at the same time. The Reporting Authority [25] also will implement and maintain, or ensure that the Composition File will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the Fund's portfolio positions and changes in the positions.

An estimated value of an individual Share, defined in Nasdaq Rule 5745(c)(2) as the ''Intraday Indicative Value,'' will be calculated and disseminated at intervals of not more than 15 minutes throughout the Regular Market Session [26] when Shares trade on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the IIV will be calculated on an intraday basis and provided to Nasdaq for dissemination via the Nasdaq Global Index Service (''GIDS'').

The IIV will be based on current information regarding the value of the securities and other assets held by the Fund.[27] The purpose of the IIVs is to enable investors to estimate the next-determined NAV so they can determine the number of Shares to buy or sell if they want to transact in an approximate dollar amount (*e.g.,* if an investor wants to acquire approximately $5,000 of the Fund, how many Shares should the investor buy?).[28]

The Adviser is not a registered broker-dealer, although it is affiliated with a broker-dealer. The Adviser has implemented and will maintain a fire wall with respect to its relevant broker-dealer personnel or broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to the Fund's portfolio. In the future event that (a) the Adviser registers as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new adviser or a sub-adviser to the Fund is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel and/or such broker-dealer affiliate, if applicable, regarding access to information concerning the composition and/or changes to the relevant Fund's portfolio and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

Trading Halts

The Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in Shares. Nasdaq will halt trading in Shares under the conditions specified in Nasdaq Rules 4120 and in Nasdaq Rule 5745(d)(2)(C). Additionally, Nasdaq may cease trading Shares if other unusual conditions or circumstances exist which, in the opinion of Nasdaq, make further dealings on Nasdaq detrimental to the maintenance of a fair and orderly market. To manage the risk of a non-regulatory Share trading halt, Nasdaq has in place back-up processes and procedures to ensure orderly trading. Because, in NAV-Based Trading, all trade execution prices are linked to end-of-day NAV, buyers and sellers of Shares should be less exposed to risk of loss due to intraday trading halts than buyers and sellers of conventional exchange-traded funds (''ETFs'') and other exchange-traded securities.

Every order to trade Shares of the Fund is subject to the proxy price protection threshold of plus/minus $1.00, which determines the lower and upper threshold for the life of the order and whereby the order will be cancelled at any point if it exceeds $101.00 or falls below $99.00, the established thresholds.[29] With certain exceptions, each order also must contain the applicable order attributes, including routing instructions and time-in-force information, as described in Nasdaq Rule 4703.[30]

Trading Rules

Nasdaq deems Shares to be equity securities, thus rendering trading in Shares to be subject to Nasdaq's existing rules governing the trading of equity securities. Nasdaq will allow trading in Shares from 9:30 a.m. until 4:00 p.m. Eastern Time.

Surveillance

The Exchange represents that trading in Shares will be subject to the existing trading surveillances, administered by both Nasdaq and the Financial Industry Regulatory Authority, Inc. (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[31] The Exchange

[25] *See* Nasdaq Rule 5745(c)(4).

[26] *See* Nasdaq Rule 4120(b)(4) (describing the three trading sessions on the Exchange: (1) Pre-Market Session from 4 a.m. to 9:30 a.m. Eastern Time; (2) Regular Market Session from 9:30 a.m. to 4 p.m. or 4:15 p.m. Eastern Time; and (3) Post-Market Session from 4 p.m. or 4:15 p.m. to 8 p.m. Eastern Time).

[27] IIVs disseminated throughout each trading day would be based on the same portfolio as used to calculate that day's NAV. The Fund will reflect purchases and sales of portfolio positions in its NAV the next business day after trades are executed.

[28] Because, in NAV-Based Trading, prices of executed trades are not determined until the reference NAV is calculated, buyers and sellers of Shares during the trading day will not know the final value of their purchases and sales until the end of the trading day. The Fund's Registration Statement, Web site and any advertising or marketing materials will include prominent disclosure of this fact. Although IIVs may provide useful estimates of the value of intraday trades, they cannot be used to calculate with precision the dollar value of the Shares to be bought or sold.

[29] *See* Nasdaq Rule 5745(h).

[30] *See* Nasdaq Rule 5745(b)(6).

[31] FINRA provides surveillance of trading on the Exchange pursuant to a regulatory services

Continued

represents that these procedures are adequate to properly monitor trading of Shares on the Exchange and to deter and detect violations of Exchange rules and applicable federal securities laws.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

FINRA, on behalf of the Exchange, will communicate as needed with other markets and other entities that are members of the Intermarket Surveillance Group (''ISG'') [32] regarding trading in Shares, and in exchange-traded and non-exchange-traded securities and instruments held by the Fund (to the extent such exchange-traded and non-exchange traded securities and instruments are known through the publication of the Composition File and periodic public disclosures of the Fund's portfolio holdings), and FINRA may obtain trading information regarding such trading from other markets and other entities. In addition, the Exchange may obtain information regarding trading in Shares, and in exchange-traded and non-exchange-traded securities and instruments held by the Fund (to the extent such exchange-traded and non-exchange-traded securities and instruments are known through the publication of the Composition File and periodic public disclosures of the Fund's portfolio holdings), from markets and other entities that are members of ISG, which includes securities and futures exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement. Moreover, FINRA, on behalf of the Exchange, will be able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's Trade Reporting and Compliance Engine (''TRACE'').[33]

In addition, the Exchange also has a general policy prohibiting the distribution of material non-public information by its employees.

Information Circular

Prior to the commencement of trading in the Fund, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Units (and noting that Shares are not individually redeemable); (2) Nasdaq Rule 2111A, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in Shares to customers; (3) how information regarding the IIV and Composition File is disseminated; (4) the requirement that members deliver a prospectus to investors purchasing Shares prior to or concurrently with the confirmation of a transaction; and (5) information regarding NAV-Based Trading protocols.

As noted above, all orders to buy or sell Shares that are not executed on the day the order is submitted will be automatically cancelled as of the close of trading on such day. The Information Circular will discuss the effect of this characteristic on existing order types. The Information Circular also will identify the specific Nasdaq data feeds from which intraday Share prices in proxy price format may be obtained.

In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. Members purchasing Shares from the Fund for resale to investors will deliver a summary prospectus to such investors. The Information Circular will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

The Information Circular also will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares and the applicable NAV calculation time for the Shares. The Information Circular will disclose that information about the Shares will be publicly available on the Fund's Web site.

Information regarding Fund trading protocols will be disseminated to Nasdaq members in accordance with current processes for newly listed products. Nasdaq intends to provide its members with a detailed explanation of NAV-Based Trading through a Trading Alert issued prior to the commencement of trading in Shares on the Exchange.

Continued Listing Representations

All statements and representations made in this filing regarding (a) the description of the portfolio or reference assets, (b) limitations on portfolio holdings or reference assets, (c) dissemination and availability of the reference asset or intraday indicative values, or (d) the applicability of Exchange listing rules shall constitute continued listing requirements for listing the Shares on the Exchange. In addition, the issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under the Nasdaq 5800 Series.

2. Statutory Basis

Nasdaq believes that the proposal is consistent with Section 6(b) of the Act [34] in general, and Section 6(b)(5) of the Act [35] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares would be listed and traded on the Exchange pursuant to the initial and continued listing criteria in Nasdaq Rule 5745. The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of Shares on Nasdaq and to deter and detect violations of Exchange rules and the applicable federal securities laws. Although the Adviser is not a registered broker-dealer, it is affiliated with a broker-dealer. The Adviser has implemented and will maintain a ''fire wall'' between the Adviser and the relevant broker-dealer personnel or broker-dealer affiliate with respect to access to information concerning the

agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[32] For a list of the current members of ISG, *see www.isgportal.org.* The Exchange notes that not all components of the Fund's portfolio may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[33] For municipal securities, trade information can generally be found on the Electronic Municipal Market Access (''EMMA'') of the Municipal Securities Rulemaking Board (''MSRB'').

[34] 15 U.S.C. 78f(b).

[35] 15 U.S.C. 78f(b)(5).

composition and/or changes to the Fund's portfolio holdings. In the event that (a) the Adviser registers as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser to the Fund is a registered broker-dealer or is affiliated with a broker-dealer, such adviser or sub-adviser will implement and will maintain a fire wall with respect to its relevant personnel and/or such broker-dealer affiliate, if applicable, regarding access to information concerning the composition and/or changes to the Fund's portfolio and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio. The Exchange may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement, to the extent necessary. Moreover, FINRA, on behalf of the Exchange, will be able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's TRACE.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest. The Exchange will obtain a representation from the issuer of Shares that the NAV per Share will be calculated on each business day that the New York Stock Exchange is open for trading and that the NAV will be made available to all market participants at the same time. In addition, a large amount of information would be publicly available regarding the Fund and the Shares, thereby promoting market transparency.

Prior to the commencement of market trading in Shares, the Fund will be required to establish and maintain a public Web site through which its current prospectus may be downloaded. The Web site will display additional Fund information updated on a daily basis, including the prior business day's NAV, and the following trading information for such business day expressed as premiums/discounts to NAV: (a) Intraday high, low, average and closing prices of Shares in Exchange trading; (b) the Closing Bid/Ask Midpoint; and (c) the Closing Bid/Ask Spread. The Web site will also contain charts showing the frequency distribution and range of values of trading prices, Closing Bid/Ask Midpoints and Closing Bid/Ask Spreads over time. The Composition File will be disseminated through the NSCC before the open of trading in Shares on each business day and also will be made available to the public each day on a free Web site. The Exchange will obtain a representation from the issuer of the Shares that the IIV will be calculated and disseminated on an intraday basis at intervals of not more than 15 minutes during trading on the Exchange and provided to Nasdaq for dissemination via GIDS. A complete list of current portfolio positions for the Fund will be made available at least once each calendar quarter, with a reporting lag of not more than 60 days. The Fund may provide more frequent disclosures of portfolio positions at its discretion.

Transactions in Shares will be reported to the Consolidated Tape at the time of execution in proxy price format and will be disseminated to member firms and market data services through Nasdaq's trading service and market data interfaces, as defined above. Once the Fund's daily NAV has been calculated and the final price of its intraday Share trades has been determined, Nasdaq will deliver a confirmation with final pricing to the transacting parties. At the end of the day, Nasdaq will also post a newly created FTP file with the final transaction data for the trading and market data services. The Exchange expects that information regarding NAV-based trading prices and volumes of Shares traded will be continuously available on a real-time basis throughout each trading day on brokers' computer screens and other electronic services. Because Shares will trade at prices based on the next-determined NAV, investors will be able to buy and sell individual Shares at a known premium or discount to NAV that they can limit by transacting using limit orders at the time of order entry. Trading in Shares will be subject to Nasdaq Rules 5745(d)(2)(B) and (C), which provide for the suspension of trading or trading halts under certain circumstances, including if, in the view of the Exchange, trading in Shares becomes inadvisable.

Every order to trade Shares of the Fund is subject to the proxy price protection threshold of plus/minus $1.00, which determines the lower and upper threshold for the life of the order and whereby the order will be cancelled at any point if it exceeds $101.00 or falls below $99.00, the established thresholds. With certain exceptions, each order also must contain the applicable order attributes, including routing instructions and time-in-force information, as described in Nasdaq Rule 4703.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of the Fund, which seeks to provide investors with access to an actively managed investment strategy in a structure that offers the cost and tax efficiencies and shareholder protections of ETFs, while removing the requirement for daily portfolio holdings disclosure to ensure a tight relationship between market trading prices and NAV.

For the above reasons, Nasdaq believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In fact, the Exchange believes that the introduction of the Fund would promote competition by making available to investors an actively managed investment strategy in a structure that offers the cost and tax efficiencies and shareholder protections of ETFs, while removing the requirement for daily portfolio holdings disclosure to ensure a tight relationship between market trading prices and NAV. Moreover, the Exchange believes that the proposed method of Share trading would provide investors with transparency of trading costs, and the ability to control trading costs using limit orders, that is not available for conventionally traded ETFs.

These developments could significantly enhance competition to the benefit of the markets and investors.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 Exchange consents, the Commission shall: (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–NASDAQ–2017–091 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2017–091. 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–NASDAQ–2017–091 and should be submitted on or before October 10, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–19802 Filed 9–15–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a closed meeting on Wednesday, September 20, 2017 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(7), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Piwowar, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matters of the closed meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed; please contact Brent J. Fields from the Office of the Secretary at (202) 551–5400.

Dated: September 13, 2017.

Brent J. Fields,

Secretary.

[FR Doc. 2017–19918 Filed 9–14–17; 4:15 pm]

BILLING CODE 8011–01–P

[36] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81598; File No. SR–ISE–2017–83]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Make Non-Substantive, Clarifying Changes to ISE's Rulebook and Schedule of Fees

September 13, 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 September 1, 2017, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to make non-substantive, clarifying changes to ISE's Rulebook and Schedule of Fees.

The text of the proposed rule change is available on the Exchange's Web site at *www.ise.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to make non-substantive, clarifying changes to the ISE Rulebook and Schedule of Fees to avoid confusion

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

in the Exchange's rules. Each change is discussed below.

1. ISE Rulebook

The Exchange proposes to remove text from ISE Rule 721, entitled ''Crossing Orders.'' Specifically, the Exchange proposes to remove the following rule text, ''ISE will migrate symbols to the INET platform pursuant to a symbol migration commencing in the second quarter of 2017. For symbols that have migrated to the INET platform, the functionality provided under ISE Rule 721(c) and the Supplementary Material thereto, permitting QCC with Stock Orders, will be temporarily suspended. The Exchange will specify the symbol migration schedule in an Options Trader Alert to be issued by the Exchange. The Exchange will recommence offering QCC with Stock Orders by announcing a date of implementation in a separate Options Trader Alert which will be issued prior to August 1, 2017. For symbols that have migrated to INET, QCC with Stock Orders will be rejected until the Exchange has recommenced this offering.'' This rule text was added at the time the Exchange proposed to delay this functionality.[3] The Exchange recommenced the QCC with Stock Orders functionality on June 27, 2017.[4] The text is no longer applicable.

The Exchange also proposes to remove text from ISE Rule 1901, entitled ''Order Protection.'' [5] Specifically, the Exchange proposes to remove the following rule text, ''The amended rule text will be implemented on a symbol by symbol basis for Nasdaq GEMX, LLC in Q1 2017, for Nasdaq ISE in Q2 2017 and for Nasdaq MRX, LLC in Q3 2017, the specific dates will be announced in a separate notice.'' This rule text was added at the time the Exchange proposed to delay implementation of the changes to Rule 1901 in connection with a system migration to Nasdaq INET technology.[6] Each of ISE, GEMX and MRX completed its symbol migration to INET.[7] Accordingly, the Exchange seeks to remove the outdated rule text in Rule 1901 as described above in order to alleviate potential confusion regarding the operation of the rule.

2. Schedule of Fees

The Exchange further proposes to remove the following outdated sentences or footnotes, including any references thereto, in the Preface and in Sections I and III of the Schedule of Fees:

- There will be no fees or rebates for trades in symbol KANG executed on the INET trading system from June 27–30, 2017. Volume executed in KANG during this period will not be counted towards a member's tier for June activity.[8]
- There will be no fees or rebates for trades executed on the INET trading system on June 30, 2017 in the following symbols: ACN, ACOR, AEO, AFSI, AMJ, AOBC, BKD, BTE, BV, CBI, CCL, CLR, CME, CNQ, ADM, ADSK, AGNC, ASHR, BBT, BK, BSX, CIEN, and IBM. Volume executed in these symbols on this date will not be counted towards a member's tier for June activity. In addition, June 30, 2017 will not be counted for purposes of determining Market Maker Plus tiers for the following symbols: ADM, ADSK, AGNC, ASHR, BBT, BK, BSX, CIEN, and IBM.[9]
- Select Symbols which will migrate to INET from July 3rd through July 30th 2017 as noticed by Nasdaq ISE in Options Trader Alert #2017–51 (''Migrated Symbols'') will not be subject to Market Maker Plus Tiers 1–3 for the month of July 2017. These Migrated Symbols will be subject to Market Maker Plus Tiers 1–3 as of August 1, 2017 and thereafter. Additionally, Select Symbols which will migrate to INET on July 31, 2017 as noticed by Nasdaq ISE at Options Trader Alert #2017–51 (''July 31 Migrated Symbols'') will only use activity from July 3rd through July 30th 2017 for purposes of qualifying for Market Maker Plus Tiers 1–3 for the month of July 2017.[10]
- There will be no fees or rebates for trades in FX Options executed on the INET trading system from June 12–30, 2017. Volume executed in FX Options during this period will not be counted towards a member's tier for June activity.[11]

The operative dates for the pricing noted above have expired. The Exchange therefore desires to remove the outdated text from its Schedule of Fees to avoid confusion.

Finally, the Exchange proposes to make certain clarifying changes in Section II of the Schedule of Fees entitled, ''Complex Order Fees and Rebates'' (hereinafter, ''Complex Fee Schedule''). In particular, the Exchange proposes to add references to footnotes 11 and 12 in the Complex Fee Schedule, both of which presently do not refer to any particular complex order fee or activity. Footnote 11 currently states that fees apply to the originating and contra order, but the footnote itself does not refer to any particular fees under the Complex Fee Schedule. The Exchange notes that when it adopted footnote 11 in the Complex Fee Schedule, it had appended references to the footnote to the fees for Crossing Orders and for orders executed in the Price Improvement Mechanism (''PIM''),[12] but inadvertently did not reflect the changes appending these references to the two fees in the Schedule of Fees itself. The Exchange therefore proposes to append footnote 11 to the fees for Crossing Orders and PIM orders to clarify that these fees apply to both the originating and contra order for complex orders.

In addition, the Exchange proposes to clarify the application of footnote 12,[13] which also does not refer to anything under the Complex Fee Schedule today. The Exchange adopted footnote 12 when it introduced the stock handling fee [14] for stock-option orders,[15] and now

[3] *See* Securities Exchange Act Release No. 80718 (May 18, 2017), 82 FR 23932 (May 24, 2017) (SR–ISE–2017–44).

[4] *See* Options Trader Alert #2017–48.

[5] The Exchange notes that Chapter 19 of the ISE Rulebook, including Rule 1901, is incorporated by referenced into the rulebooks of Nasdaq GEMX, LLC (''GEMX'') and Nasdaq MRX, LLC (''MRX''). As such, the amendments to ISE Rule 1901 will also impact GEMX and MRX rules.

[6] *See* Securities Exchange Act Release No. 80009 (February 10, 2017), 82 FR 10927 (February 16, 2017) (SR–ISE–2016–31).

[7] *See* Options Trader Alerts #2017–19 (GEMX symbol migration schedule), #2017–61 (ISE symbol migration schedule) and #2017–66 (MRX symbol migration schedule).

[8] This rule text was added to the Schedule of Fees in connection with a pricing change. *See* Securities Exchange Act Release No. 81106 (July 10, 2017), 82 FR 32597 (July 14, 2017) (SR–ISE–2017–63).

[9] This rule text was added to the Schedule of Fees in connection with a pricing change. *See* Securities Exchange Act Release No. 81128 (July 12, 2017), 82 FR 32893 (July 18, 2017) (SR–ISE–2017–66).

[10] This footnote (and references thereto) was added to the Schedule of Fees in connection with a pricing change. *See* Securities Exchange Act Release No. 81144 (July 14, 2017), 82 FR 33527 (July 20, 2017) (SR–ISE–2017–69).

[11] This rule text was added to the Schedule of Fees in connection with a pricing change. *See* Securities Exchange Act Release No. 80999 (June 22, 2017), 82 FR 29354 (June 28, 2017) (SR–ISE–2017–59).

[12] *See* Securities Exchange Release No. 71914 (April 9, 2014), 79 FR 21321 (April 15, 2014) (SR–ISE–2014–20).

[13] Footnote 12 currently states that the Exchange will charge a stock handling fee of $0.0010 per share (capped at $50 per trade) for the stock leg of stock-option orders executed against other stock-option orders in the complex order book.

[14] *See* Securities Exchange Release No. 74117 (January 22, 2015), 80 FR 4600 (January 28, 2015) (SR–ISE–2015–03) (hereinafter, ''Stock Handling Fee Notice'').

[15] A stock-option order is an order to buy or sell a stated number of units of an underlying stock or a security convertible into the underlying stock (''convertible security'') coupled with the purchase or sale of options contract(s) on the opposite side of the market representing either (A) the same number of units of the underlying stock or convertible security, or (B) the number of units of the underlying stock necessary to create a delta neutral position, but in no case in a ratio greater than eight-to-one (8.00), where the ratio represents the total number of units of the underlying stock

Continued

proposes to insert a reference to this footnote at the top of the Complex Fee Schedule (*i.e.,* at Section II) to clarify that this fee applies to all orders that have a stock component as described in footnote 12.[16]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[17] in general, and furthers the objectives of Section 6(b)(5) of the Act,[18] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

As discussed above, the Exchange seeks to make non-substantive, clarifying amendments to its Rulebook and Schedule of Fees by removing outdated text and by appending references to footnotes 11 and 12 at particular places in the Complex Fee Schedule. The Exchange believes that the proposed changes herein will add further clarification to the Rulebook and Schedule of Fees, and will also alleviate potential confusion as to the applicability of the Exchange's rules, all of which will 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 discussed above, the proposed changes are non-substantive, clarifying amendments to the Exchange's Rulebook and Schedule of Fees, and are merely intended to add further clarification to the Exchange's rules and alleviate potential confusion.

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.

or convertible security in the option leg to the total number of units of the underlying stock or convertible security in the stock leg. *See* ISE Rule 722(a)(2).

[16] The Exchange will continue to bill pass-through fees for the stock leg of stock-option orders that trade against liquidity on the stock venue, instead of being matched in the complex order book. *See* Stock Handling Fee Notice at 4601.

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [19] and Rule 19b–4(f)(6) thereunder.[20]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [21] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [22] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the Exchange may immediately make the proposed changes to its Rulebook and Schedule of Fees. The Exchange believes that removing the outdated or duplicative language and clarifying the application of footnotes 11 and 12 will provide its rules with greater clarity and will avoid confusion as to their applicability. The Commission believes the waiver of the operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[23]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

[19] 15 U.S.C. 78s(b)(3)(A).

[20] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[21] 17 CFR 240.19b–4(f)(6).

[22] 17 CFR 240.19b–4(f)(6)(iii).

[23] 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).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2017–83 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–ISE–2017–83. 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–ISE–2017–83, and should be submitted on or before October 10, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–19807 Filed 9–15–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81599; File No. SR–BatsBZX–2017–30]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Permit the Listing and Trading of Managed Portfolio Shares; and To List and Trade Shares of the Following Under Proposed Rule 14.11(k): ClearBridge Appreciation ETF; ClearBridge Large Cap ETF; ClearBridge MidCap Growth ETF; ClearBridge Select ETF; and ClearBridge All Cap Value ETF

September 13, 2017.

On June 1, 2017, Bats BZX Exchange, Inc. (''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to: (1) Adopt Rule 14.11(k) (Managed Portfolio Shares); and (2) list and trade shares (''Shares'') of the ClearBridge Appreciation ETF; ClearBridge Large Cap ETF; ClearBridge MidCap Growth ETF; ClearBridge Select ETF; and ClearBridge All Cap Value ETF under proposed Rule 14.11(k). The proposed rule change was published for comment in the **Federal Register** on June 19, 2017.[3] On July 28, 2017, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] The Commission has received four comments on the proposed rule change.[6] This order institutes proceedings under Section 19(b)(2)(B) of the Act[7] to determine whether to approve or disapprove the proposed rule change.

I. Summary of the Exchange's Description of the Proposed Rule Change[8]

The Exchange proposes to adopt new Rule 14.11(k), which would govern the listing and trading of ''Managed Portfolio Shares.''[9] The Exchange also proposes to list and trade Shares of the ClearBridge Appreciation ETF; ClearBridge Large Cap ETF; ClearBridge MidCap Growth ETF; ClearBridge Select ETF; and ClearBridge All Cap Value ETF under proposed Rule 14.11(k) (each a ''Fund,'' and collectively the ''Funds'').

A. Description of the Funds

The portfolio for each Fund will consist primarily of long and/or short positions in U.S.-exchange-listed securities and shares issued by other U.S. exchange-listed exchange-traded funds (''ETFs'').[10] All exchange-listed equity securities in which the Funds will invest will be listed and traded on U.S. national securities exchanges.

1. ClearBridge Appreciation ETF

The ClearBridge Appreciation ETF will seek to provide long-term appreciation of shareholders' capital. The Fund will seek to achieve its investment objective by investing primarily in U.S. exchange-listed equity securities. The Fund will typically invest in medium and large capitalization companies, but may also invest in small capitalization companies.

2. ClearBridge Large Cap ETF

The ClearBridge Large Cap ETF will seek long-term capital appreciation. The Fund will seek to achieve its investment objective by taking long and possibly short positions in equity securities or groups of equities that the portfolio managers believe will provide long term capital appreciation. The Fund will normally invest at least 80% of its net assets (plus borrowings for investment purposes) in stocks included in the Russell 1000 Index and ETFs that primarily invest in stocks in the Russell 1000 Index. The Fund purchases securities that the Fund's sub-adviser, ClearBridge Investments, LLC (''Sub-Adviser''), believes are undervalued, and sells short securities that it believes are overvalued.

3. ClearBridge Mid Cap Growth ETF

The ClearBridge Mid Cap Growth ETF will seek long-term growth of capital. The Fund will seek to achieve its investment objective by investing primarily in U.S. exchange-listed, publicly traded equity and equity-related securities of U.S. companies or other instruments with similar economic characteristics. The Fund may invest in securities of issuers of any market capitalization.

4. ClearBridge Select ETF

The ClearBridge Select ETF will seek to provide long-term growth of capital. The Fund will seek to achieve its investment objective by investing primarily in U.S. exchange-listed, publicly traded equity and equity-related securities of U.S. companies or other instruments with similar economic characteristics. The Fund may invest in securities of issuers of any market capitalization.

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[24] 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. 80911 (June 13, 2017), 82 FR 27925 (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 81247, 82 FR 36031 (August 2, 2017). The Commission designated September 17, 2017, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

[6] *See* Letter from Gary L. Gastineau, President, ETF Consultants.com, Inc., to Brent J. Fields, Secretary, Commission, dated July 7, 2017 (''Gastineau Letter''); Letter from Todd J. Broms, Chief Executive Officer, Broms & Company LLC, to Brent J. Fields, Secretary, Commission, dated July 10, 2017 (''Broms Letter''); Letter from James J. Angel, Associate Professor of Finance, Georgetown University, McDonough School of Business, to the Commission, dated July 10, 2017 (''Angel Letter''); and Letter from Terence W. Norman, Founder, Blue Tractor Group, LLC, to Brent J. Fields, Secretary, Commission, dated August 1, 2017 (''Norman Letter''). The comment letters are available on the Commission's Web site at: *https://www.sec.gov/comments/sr-batsbzx-2017-30/batsbzx201730.htm.*

[7] 15 U.S.C. 78s(b)(2)(B).

[8] For a complete description of the Exchange's proposal, including a description of the Precidian ETF Trust II (''Trust''), *see* the Notice, *supra* note 3.

[9] Proposed Rule 14.11(k)(3)(A) defines the term ''Managed Portfolio Share'' as a security that (a) is issued by a registered investment company (''Investment Company'') organized as an open-end management investment company or similar entity, that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies; and (b) when aggregated in a number of shares equal to a Redemption Unit (as defined in proposed Rule 14.11(k)(3)(C)) or multiples thereof, may be redeemed at the request of an authorized participant (as defined in the Investment Company's Form N–1A filed with the Commission), which authorized participant will be paid through a confidential account (''Confidential Account'') established for its benefit, a portfolio of securities and/or cash with a value equal to the next determined net asset value (''NAV'').

[10] The Exchange represents that, for purposes of describing the holdings of the Funds, ETFs include Portfolio Depository Receipts (as described in Rule 14.11(b)); Index Fund Shares (as described in Rule 14.11(c)); and Managed Fund Shares (as described in Rule 14.11(i)). The ETFs in which a Fund will invest all will be listed and traded on national securities exchanges. While the Funds may invest in inverse ETFs, the Funds will not invest in leveraged (*e.g.,* 2X, -2X, 3X or -3X) ETFs.

5. ClearBridge All Cap Value ETF

The ClearBridge All Cap Value ETF will seek long-term capital growth with current income as a secondary consideration. The Fund will seek to achieve its investment objective by investing primarily in common stocks and common stock equivalents, such as preferred stocks and securities convertible into common stocks, of companies the Sub-Adviser believes are undervalued in the marketplace. The Fund may invest up to 25% of its net assets in equity securities of foreign issuers through U.S. exchange-listed depositary receipts.

6. Other Investments

According to the Exchange, while each Fund, under normal market conditions, will invest primarily in U.S. exchange-listed securities, as described above, each Fund may invest its remaining assets in other securities and financial instruments as follows: (i) Repurchase agreements; [11] (ii) warrants, rights, and options (limited to 5% of total assets); (iii) cash or cash equivalents; [12] and (iv) other investment companies (including money market funds).

7. Investment Restrictions

Each Fund may invest up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment),[13] consistent with Commission guidance. Each Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of a Fund's net assets are invested in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

The Funds will not invest in securities listed on non-U.S. exchanges. The Funds also will not invest in futures, forwards, or swaps. Further, each Fund's investments will be consistent with its investment objective and will not be used to enhance leverage. While a Fund may invest in inverse ETFs, a Fund will not invest in leveraged (*e.g.,* 2X, −2X, 3X or −3X) ETFs.

B. Key Features of Managed Portfolio Shares

While Investment Companies issuing Managed Portfolio Shares would be actively-managed, and in that respect would be similar to those issuing Managed Fund Shares,[14] Managed Portfolio Shares would differ from Managed Fund Shares in the following respects.

- First, issues of Managed Fund Shares are required to disseminate their ''Disclosed Portfolio'' at least once daily.[15] By contrast, the portfolio for an issue of Managed Portfolio Shares would be disclosed only quarterly.[16]
- Second, in connection with the redemption of shares in ''Redemption Unit'' size, the delivery of any portfolio securities in kind would be effected through a Confidential Account for the benefit of the redeeming authorized participant without disclosing the identity of the securities to the authorized participant.
- Third, for each series of Managed Portfolio Shares, a Verified Intraday Indicative Value (''VIIV'') would be disseminated by one or more major market data vendors at least every second during the Exchange's Regular Trading Hours (normally, 9:30 a.m. to 4:00 p.m., Eastern Time (''E.T.'')).[17] The Exchange states that dissemination of the VIIV will allow investors to determine the estimated intra-day value of the underlying portfolio of a series of Managed Portfolio Shares and will provide a close estimate of that value throughout the trading day.[18]

C. Arbitrage of Managed Portfolio Shares

The Exchange asserts that market makers will be able to make efficient and liquid markets priced near the VIIV, as long as a VIIV is disseminated at least every second, market makers have knowledge of a Fund's means of achieving its investment objective, and market makers are permitted to engage in ''bona fide arbitrage,'' as described below. According to the Exchange, market makers would employ bona fide arbitrage in addition to risk-management techniques such as ''statistical arbitrage,'' [19] which the Exchange states is currently used throughout the financial services industry, to make efficient markets in ETFs.

According to the Exchange, if an authorized participant believes that Shares of a Fund are trading at a price

[11] The Exchange states that it will be the policy of the Trust to enter into repurchase agreements only with recognized securities dealers, banks, and the Fixed Income Clearing Corporation.

[12] The Exchange states that for purposes of the filing, cash equivalents include short-term instruments (instruments with maturities of less than 3 months) of the following types: (i) U.S. Government securities, including bills, notes and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. Government agencies or instrumentalities; (ii) certificates of deposit issued against funds deposited in a bank or savings and loan association; (iii) bankers' acceptances, which are short-term credit instruments used to finance commercial transactions; (iv) repurchase agreements and reverse repurchase agreements; (v) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest; (vi) commercial paper, which are short-term unsecured promissory notes; and (vii) money market funds.

[13] In reaching liquidity decisions, the investment adviser to the Trust, Precidian Funds LLC (''Adviser''), may consider the following factors: The frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace in which it trades (*e.g.,* the time needed to dispose of the security, the method of soliciting offers and the mechanics of transfer).

[14] Managed Fund Shares are shares of actively-managed Investment Companies listed and traded under Rule 14.11(i).

[15] Rule 14.11(i)(3)(B) defines the term ''Disclosed Portfolio'' as the identities and quantities of the securities and other assets held by the Investment Company that will form the basis for the Investment Company's calculation of NAV at the end of the business day. Rule 14.11(i)(4)(B)(ii)(a) requires that, for Managed Fund Shares, the Disclosed Portfolio will be disseminated at least once daily and will be made available to all market participants at the same time.

[16] The Exchange states that the portfolio for an issue of Managed Portfolio Shares would be disclosed quarterly in accordance with normal disclosure requirements otherwise applicable to open-end investment companies registered under the Investment Company Act of 1940 (''1940 Act'').

[17] Proposed Rule 14.11(k)(3)(B) defines the VIIV as the estimated indicative value of a Managed Portfolio Share based on all of the issuer's holdings as of the close of business on the prior business day, priced and disseminated in at least one second intervals, and subject to validation by a pricing verification agent of the Investment Company that is responsible for comparing multiple independent pricing sources to establish the accuracy of the VIIV.

[18] According to the Exchange, the VIIV should not be viewed as a ''real-time'' update of the NAV per Share of each Fund, because the VIIV may not be calculated in the same manner as the NAV, which will be computed once a day, generally at the end of the business day.

[19] According to the Exchange, statistical arbitrage enables a trader to construct an accurate proxy for another instrument, allowing the trader to hedge the other instrument or buy or sell the instrument when it is cheap or expensive in relation to the proxy. Statistical analysis permits traders to discover correlations based purely on trading data without regard to other fundamental drivers. These correlations are a function of differentials, over time, between one instrument or group of instruments and one or more other instruments. Once the nature of these price deviations has been quantified, a universe of securities is searched in an effort to, in the case of a hedging strategy, minimize the differential. Once a suitable hedging proxy has been identified, a trader can minimize portfolio risk by executing the hedging basket. The trader then can monitor the performance of this hedge throughout the trade period making correction where warranted.

that is higher than the value of the underlying portfolio—for example, if the market price for the Shares is higher than the VIIV—then the authorized participant may sell Shares of the Fund short and instruct its ''Trusted Agent'' [20] to buy portfolio securities for its Confidential Account. When the market price of the Shares falls in line with the value of the portfolio, the authorized participant can then close out its positions in both the Shares and the portfolio securities. According to the Exchange, the authorized participant's purchase of the portfolio securities into its Confidential Account, combined with the sale of Shares, may create downward pressure on the price of Shares and/or upward pressure on the price of the portfolio securities, bringing the market price of Shares and the value of a Fund's portfolio securities closer together. Similarly, according to the Exchange, an authorized participant could buy Shares and instruct the Trusted Agent to sell the underlying portfolio securities from its Confidential Account in an attempt to profit when a Fund's Shares are trading at a discount to its portfolio. According to the Exchange, the authorized participant's purchase of a Fund's Shares in the secondary market, combined with the sale of the portfolio securities from its Confidential Account, may create upward pressure on the price of Shares and/or downward pressure on the price of portfolio securities, driving the market price of Shares and the value of a Fund's portfolio securities closer together. The Exchange states that, according to the Adviser, this process is identical to how many authorized participants currently arbitrage existing traditional ETFs, except for the use of the Confidential Account.

According to the Exchange, a market participant that is not an authorized participant would also be able to establish a Confidential Account and could engage in arbitrage activity without using the creation or redemption processes described above. The Exchange states that if such a market participant believes that a Fund is overvalued relative to its underlying assets, the market participant could sell Shares short and instruct its Trusted Agent to buy portfolio securities in its Confidential Account, wait for the trading prices to move toward parity, and then close out the positions in both the Shares and the portfolio securities to realize a profit from the relative movement of their trading prices. Similarly, according to the Exchange, a market participant could buy Shares and instruct the Trusted Agent to sell the underlying portfolio securities in an attempt to profit when a Fund's Shares are trading at a discount to a Fund's underlying or reference assets.

D. The Creation and Redemption Procedures

The Exchange states that, generally, Shares will be purchased and redeemed on an in-kind basis. Accordingly, except where the purchase or redemption will include cash under the circumstances described in the applicable Fund's registration statement, purchasers will be required to purchase ''Creation Units'' by making an in-kind deposit of specified instruments (''Deposit Instruments''), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments (''Redemption Instruments''). On any given business day, the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that constitute the Redemption Instruments will be identical, and these instruments may be referred to, in the case of either a purchase or a redemption, as the ''Creation Basket.''

In the case of a redemption, a Fund's custodian (''Custodian'') will typically deliver securities to the Confidential Account on a *pro rata* basis with a value approximately equal to the value of the Shares tendered for redemption at the redemption order cut-off time established by the Fund. The Custodian will make delivery of the securities by appropriate entries on its books and records transferring ownership of the securities to the authorized participant's Confidential Account, subject to delivery of the Shares redeemed. The Trusted Agent of the Confidential Account will in turn liquidate, hedge, or otherwise manage the securities based on instructions from the authorized participant.[21]

If the Trusted Agent is instructed to sell all securities received at the close on the redemption date, the Trusted Agent will pay the liquidation proceeds net of expenses, plus or minus any cash balancing amount, to the authorized participant through DTC.[22] The redemption securities that the Confidential Account receives are expected to mirror the portfolio holdings of a Fund *pro rata.*

E. Availability of Information

Each Fund will be required to file with the Commission its complete portfolio schedules for the second and fourth fiscal quarters on Form N–CSR under the 1940 Act, and to file its complete portfolio schedules for the first and third fiscal quarters on Form N–Q under the 1940 Act, within 60 days of the end of the quarter. Form N–Q requires funds to file the same schedules of investments that are required in annual and semi-annual reports to shareholders. The Trust's SAI and each Fund's shareholder reports will be available free upon request from the Trust. These documents and forms may be viewed on-screen or downloaded from the Commission's Web site at *www.sec.gov.*

In addition, the VIIV will be widely disseminated by one or more major market data vendors at least every second during the Regular Trading Hours.[23] According to the Exchange, the VIIV will include all accrued income and expenses of a Fund and will assure that any extraordinary expenses, booked during the day, which would be taken into account in calculating a Fund's NAV for that day, are also taken into account in calculating the VIIV.

For purposes of the VIIV, securities held by a Fund will generally be valued throughout the day based on the mid-point between the disseminated current national best bid and offer. According to the Exchange, by utilizing the mid-point pricing for purposes of VIIV calculation, stale prices are eliminated and more accurate representation of the real-time value of the underlying securities is provided to the market. Specifically,

[20] Proposed Rule 14.11(k)(2)(D) requires that authorized participants redeeming Managed Portfolio Shares sign an agreement with an agent (''Trusted Agent'') to establish a Confidential Account, for the benefit of such authorized participant, that will receive all consideration from the issuer in a redemption. A Trusted Agent may not disclose the consideration received in a redemption except as required by law or as provided in the Investment Company's Form N–1A, as applicable.

[21] The Exchange represents that an authorized participant will issue execution instructions to the Trusted Agent and be responsible for all associated profit or losses. Like a traditional ETF, the authorized participant has the ability to sell the basket securities at any point during normal trading hours.

[22] According to the Exchange, under applicable provisions of the Internal Revenue Code, the authorized participant is expected to be deemed a ''substantial owner'' of the Confidential Account because it receives distributions from the Confidential Account. As a result, the Exchange states, all income, gain, or loss realized by the Confidential Account will be directly attributed to the authorized participant. The Exchange also states that, in a redemption, the authorized participant will have a basis in the distributed securities equal to the fair market value at the time of the distribution, and any gain or loss realized on the sale of those Shares will be taxable income to the authorized participant.

[23] The Exchange states that it will disseminate the VIIV for each Fund in at least one-second intervals during Regular Trading Hours, through the facilities of the Consolidated Tape Association.

according to the Exchange, quotations based on the mid-point of bid/ask spreads more accurately reflect current market sentiment by providing real time information on where market participants are willing to buy or sell securities at that point in time. The Exchange also believes that the use of quotations will dampen the impact of any momentary spikes in the price of a portfolio security.

According to the Exchange, each Fund will utilize two independent pricing sources to provide two independent sources of pricing information. Each Fund will also utilize a ''Pricing Verification Agent'' and establish a computer-based protocol that will permit the Pricing Verification Agent to continuously compare the two data streams from the independent pricing sources on a real time basis.[24] A single VIIV will be disseminated publicly for each Fund; however, the Pricing Verification Agent will continuously compare the public VIIV against a non-public alternative intra-day indicative value to which the Pricing Verification Agent has access. If it becomes apparent that there is a material discrepancy between the two data streams, the Exchange will be notified and have the ability to halt trading in a Fund until the discrepancy is resolved.[25] Each Fund's board of directors will review the procedures used to calculate the VIIV and maintain its accuracy as appropriate, but not less than annually. The specific methodology for calculating the VIIV will be disclosed on each Fund's Web site.

F. Surveillance

The Exchange represents that trading of the Shares will be subject to its surveillance procedures for derivative products. The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws.[26]

The Exchange represents that the Funds' Adviser will make available daily to FINRA and the Exchange the portfolio holdings of each Fund in order to facilitate the performance of the surveillances referred to above. In addition, the Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees.

II. Summary of Comment Letters

The Commission has received four comment letters on the proposed rule change, each of which expresses opposition to the proposed rule change.[27] As of the date of this order instituting proceedings, the Exchange has not submitted a response to the comments.

A. *Gastineau Letter.*[28] The commenter opposes approval of the proposed rule change and recommends imposition of a number of requirements in the event the proposed rule change and exemptive application are approved. As an initial matter, the commenter believes that the proposed selective disclosure of Fund portfolio holdings information to Trusted Agents trading on behalf of Confidential Account holders would constitute insider trading and would violate federal securities laws.

In addition, the commenter asserts that market makers will face significant impediments to successfully arbitrage the Shares and predicts that this will lead to the Shares trading at wider bid-ask spreads and more variable premiums/discounts than actively-managed ETFs available today. First, the commenter questions the Exchange's assertion that the VIIV will provide an adequate basis for ensuring a Fund's ongoing price value alignment and secondary market trading efficiency. In evaluating the Exchange's statements regarding VIIVs, the commenter asserts that their utility should be compared not to the intraday indicative values (''IIVs'') of existing ETFs but rather to the independently derived, real-time estimates of underlying fund value that ETF market makers use today to identify arbitrage opportunities and manage their risks (''MM IIVs''). The commenter asserts that, because existing actively-managed ETFs (and most index ETFs) provide full daily disclosure of their current portfolio, market makers of transparent funds have access to far better information about the current value of fund holdings than the proposed VIIVs would provide. Moreover, the commenter asserts that VIIVs will be significantly less precise than MM IIVs. The commenter also asserts that MM IIVs include significant information that would not be reflected in VIIVs, noting as follows:

- In calculating VIIVs, Fund securities would be valued based on the mid-point between the current national best bid and offer quotations. The commenter characterizes the bid-ask midpoint as a ''fairly crude valuation metric'' that does not capture important trading information incorporated into MM IIVs, such as the current bid-ask spread, the depth of the current order book on the bid and offer side of the market, and the predominance of current trading between bid-side and offer-side transactions.[29]
- VIIVs would be disseminated at least every second, while internal valuations used by market makers update continuously (often at frequencies higher than once per second) and may be reflected in MM IIVs with less time lag.
- The VIIV verification process would leave significant room for dissemination of erroneous values. In particular, a Fund's Pricing Verification Agent would take no action to address observed discrepancies in VIIV input prices until the calculated Fund values differ by at least 25 bps for 60 seconds. The commenter characterizes that disparity as ''huge,'' asserting that it would be

[24] A Fund's Custodian will provide, on a daily basis, the constituent basket file comprised of all securities plus any cash to the independent pricing agent(s) for purposes of pricing.

[25] Proposed Rule 14.11(k)(4)(B)(iii) provides that, upon notification to the Exchange by the Investment Company or its agent that (i) the prices from the multiple independent pricing sources to be validated by the Investment Company's Pricing Verification Agent differ by more than 25 basis points for 60 seconds in connection with pricing of the VIIV, or (ii) the VIIV of a series of Managed Portfolio Shares is not being priced and disseminated in at least one-second intervals, as required, the Exchange will halt trading in the Managed Portfolio Shares as soon as practicable. The halt in trading would continue until the Investment Company or its agent notifies the Exchange that the prices from the independent pricing sources no longer differ by more than 25 basis points for 60 seconds or that the VIIV is being priced and disseminated as required. The Investment Company or its agent would be responsible for monitoring that the VIIV is being priced and disseminated as required and whether the prices to be validated from multiple independent pricing sources differ by more than 25 basis points for 60 seconds.

[26] The Exchange represents that the Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, underlying stocks, ETFs, and exchange-listed options with other markets and other entities that are members of the Intermarket Surveillance Group (''ISG''), and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding such securities from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, underlying stocks, ETFs and exchange-listed options from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[27] *See supra* note 6.

[28] The Gastineau Letter is available at: *https://www.sec.gov/comments/sr-batsbzx-2017-30/batsbzx201730-1852499-155333.pdf.*

[29] The commenter also states that the use of bid-ask midpoints can result in flawed intraday valuations for funds holding thinly-traded stocks, and that bid-ask midpoints may reflect prices at which no trading is permitted.

wider than the customary bid-ask spread of most domestic equity ETFs.[30]

• The VIIV process would not address all potential intraday valuation errors. The commenter notes that if the constituent basket file for a Fund includes material inaccuracies, the VIIVs would be erroneous. The commenter also describes that market makers would not be able to verify that corporate actions are appropriately reflected in a Fund's VIIVs because of the non-transparent portfolio.

• The process for adjusting VIIVs in the event of trading halts in portfolio securities is cumbersome and likely to result in errors in disseminated VIIVs. The commenter states that, throughout this process, which may be protracted, the Fund would continue to disseminate VIIVs that do not reflect fair values of the halted security, and therefore may vary significantly from the Fund's true underlying value at that time. The commenter asserts that the internal valuation process of any existing ETF's market makers would almost certainly arrive at a fair estimate of a Fund's current underlying value far faster than the VIIV adjustment process.

The commenter asserts that reliance on faulty VIIVs may expose market makers to unrecoverable losses, noting that: (1) No liability for the timeliness and accuracy of the VIIVs appears to rest with the Exchange, its agents, or the Reporting Authority; and (2) the circumstances under which the independent pricing sources and the Pricing Verification Agent are legally liable for such issues are limited. According to the commenter, market makers' forced reliance on VIIVs to determine intraday Fund valuations is a source of significant incremental risk for them versus making markets in existing ETFs. The commenter predicts that this will result in the Shares trading at wider bid-ask spreads and more variable premiums and discounts to NAV than similar existing ETFs.[31]

The commenter also criticizes the Confidential Accounts structure. The commenter asserts that, compared to the usual manner in which market makers in existing ETFs engage in arbitrage and buy and sell creation basket instruments, the Confidential Accounts arrangement exposes market makers to significant additional costs, risks, and lost opportunities, including:

• Less control over trade execution and trade order management when implementing portfolio hedging and Creation Unit instrument transactions, which will result in more cost and risk, and less profit opportunity.

• No ability for market makers to use their market knowledge and their positions in other securities to enhance arbitrage profits and minimize costs.

• Reduced incentive for third-party service providers to trade expeditiously and with low market impact.

• Little or no ability for market makers to monitor trading in Confidential Accounts to ensure best execution or to evaluate trading performance.

• Forced *pro rata* hedging, which is very often not the best hedge. Sub-optimal hedging results in less efficient arbitrage.

• Given the more-involved routing of trade instructions and trade orders that the Confidential Account structure would necessitate, hedging and Creation Unit instrument transactions through Confident Accounts will almost certainly take longer, on average, for a market maker to execute than similar transactions that the market maker executes internally. Slower executions may translate into less efficient arbitrage.

• Potentially significant explicit costs to establish and maintain Confidential Accounts.

Additionally, the commenter questions the Exchange's statements regarding the efficiency and utility of statistical arbitrage. The commenter states that while market makers may be able to gain some useful information about a Fund's current composition by knowing the Fund's investment objective and tracking performance correlations over time versus a known index, the amount of portfolio information that can be gleaned using this approach is limited. The commenter states that, as a result, any portfolio hedge constructed using this information would be subject to meaningful basis risk, especially during times of market stress or volatility.

The commenter expresses concerns regarding data security, and the misappropriation and misuse of a Fund's confidential portfolio information, in light of the dissemination of this information across a potentially broad network of Trusted Agents, affiliated broker-dealers, and other Confidential Account service providers. The commenter also raises concerns regarding the possibility that market participants could reverse-engineer the Funds' portfolio holdings, subjecting the Funds to the dilutive effects of front-running. The commenter asserts that ''it is far from a settled question that the Funds would not ever be susceptible to reverse engineering.''

Moreover, the commenter raises concerns regarding the ability of the Funds, the authorized participants, and the non-authorized participant market makers, to comply with various laws, rules, and regulations. In addition, the commenter recommends certain limitations on the permitted investments of the Funds, and recommends the availability of certain information.

B. *Broms Letter.*[32] The commenter opposes the proposed rule change. The commenter asserts that the proposed selective disclosure of confidential Fund holdings information to Trusted Agents for trading on behalf of Confidential Account holders would violate federal securities laws. In addition, the commenter believes that the mechanism for ensuring secondary market trading efficiency in the Shares is ''unreliable'' and predicts that the Shares will likely trade at significantly wider bid-ask spreads and/or more variable premiums/discounts than existing ETFs. The commenter also expresses concerns regarding the following:

• The likelihood that the Shares' trading performance will be especially poor during periods of market stress and volatility.

• The ability to ensure the security of confidential Fund information disseminated to Trusted Agents, their affiliates, and service providers.

• Potentially significant added Fund costs and risks associated with calculating, verifying, and disseminating the VIIV and associated Fund warranties.

• The potential for frequent Share trading halts.

• The likely incidence of erroneous Share trades and the absence of an Exchange program to detect and remedy such trades.

• The potential for reverse engineering of a Fund's portfolio holdings.

• The tax risk due to the Funds' distinctive in-kind redemption program.

• The costs, risks, and uncertainties to broker-dealers serving as authorized participants and non-authorized participant market makers in meeting their compliance obligations with respect to securities traded on their behalf through Confidential Accounts.

[30] This commenter also expresses concern that if trading in a Fund's Shares is frequently interrupted by trading halts, there could be severe damage to the Fund's ongoing liquidity and trading efficiency. Moreover, the commenter states that the proposal does not address the treatment of erroneous Fund Share trades resulting from faulty VIIVs.

[31] The commenter also expresses concerns with respect to VIIV-related costs and liabilities for the Funds.

[32] The Broms Letter is available at: *https://www.sec.gov/comments/sr-batsbzx-2017-30/batsbzx201730-1842158-155104.pdf.*

C. *Angel Letter.*[33] The commenter opposes the proposal. The commenter believes that the opaque nature of the products and the inability of arbitrageurs to closely monitor execution quality will make arbitrage more difficult and the added costs and risks will lead to wider deviations of the market price from the underlying asset value. In addition, the commenter raises concerns that the Funds may fare worse than traditional ETFs during times of market disruption given their opacity and the complexity of the arbitrage relationship between the Funds and the underlying securities. The commenter also expresses concern that selective disclosure of portfolio information could raise issues under Regulation FD and that the use of Confidential Accounts could raise issues under Regulation SHO.

In addition, the commenter expresses the following concerns:

- It is unclear whether a firm's risk management would have access to the contents of Confidential Accounts. If a firm's risk management does not have access to such information, the firm would be subject to too much risk, but if the firm's risk management does have access, information barriers would create compliance complexities.
- Positions held in the Confidential Account not closed out by the end of the day would have to be settled, and the settlement information would be available to settlement personnel.
- The Trusted Agents would have serious compliance burdens, and these burdens could drive up the cost of being a Trusted Agent, which would drive up the cost of arbitrage. Higher costs and compliance risks would severely limit the number of firms willing to take on the burden of becoming Trusted Agents, and less competition could lead to higher fees and inferior service. In the event that there were many Trusted Agents, the likelihood of data breaches would increase.

In addition, the commenter believes that the VIIV calculations are dangerously flawed because they rely on sometimes flawed bid-ask quotes. The commenter believes that the VIIV should instead be based on the last trade, and if the underlying market is closed or the underlying asset has not traded recently, then a reasonable fair value methodology should be used.[34]

Moreover, the commenter states that the proposed Funds are very different from ETFs and should not be labeled or approved as ETFs.

D. *Norman Letter.*[35] The commenter opposes the proposed rule change. The commenter refutes the Trust's statistical analysis that purports to demonstrate that the Funds' portfolio compositions could not be reverse engineered.[36] The commenter's analysis concludes that reverse engineering of a Fund's portfolio is in fact ''achievable with a substantial degree of accuracy.'' [37] The commenter also asserts that, without knowledge of a Fund's underlying stocks, market makers may be unable to hedge their risks, which would result in wider and more persistent spreads or the market maker choosing not to make a market in the Shares. In addition, the commenter questions the sufficiency of disseminating the VIIV at one-second intervals, given that high frequency trading takes place in milliseconds, and raises concerns about potential systems failures that may disrupt the dissemination of VIIV. Finally, the commenter believes that selective disclosure of portfolio information to Trusted Agents would violate federal securities laws, and expresses concern regarding the security of confidential portfolio information.

III. Proceedings To Determine Whether To Approve or Disapprove SR–BatsBZX–2017–30 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act [38] to determine whether the proposed rule change should be approved or disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide comments on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[39] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be ''designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, . . . 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.'' [40]

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with Section 6(b)(5) or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[41]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by October 10, 2017. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by October 23, 2017.

The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in the Notice,[42] in addition to any other

[33] The Angel Letter is available at: *https://www.sec.gov/comments/sr-batsbzx-2017-30/batsbzx201730-1843677-155109.pdf.*

[34] The commenter also states that VIIVs should be disseminated over the standard consolidated feeds, not specialized feeds, such that they are widely available to all investors.

[35] The Norman Letter is available at: *https://www.sec.gov/comments/sr-batsbzx-2017-30/batsbzx201730-2161995-157800.pdf.*

[36] *See* Third Amended and Restated Application for an Order for exemptions from various provisions of the 1940 Act and rules thereunder (File No. 812–14405), dated May 2, 2017, at Exhibit E (''Additional Research on the Ability to Reverse Engineer the Proposed Precidian ETF,'' by Ricky Alyn Cooper, Ph.D., dated August 2015).

[37] *See* Norman Letter, Appendix One (''The Reverse Engineering of Portfolio Compositions,'' by Dr. Anthony Hayter, dated July 17, 2017).

[38] 15 U.S.C. 78s(b)(2)(B).

[39] *Id.*

[40] 15 U.S.C. 78f(b)(5).

[41] Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Acts Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[42] *See supra* note 3.

comments they may wish to submit about the proposed rule change. Specifically, the Commission seeks comment on the statements of the Exchange contained in the Notice, the issues raised by the commenters, and any other issues raised by the proposed rule change. In addition, the Commission seeks comment on whether the trading of the Shares would be consistent with the maintenance of fair and orderly markets. In this regard, the Commission specifically seeks comment regarding market makers' ability to make markets in the Shares and the sufficiency of the proposed VIIV as pricing information to market participants. Further, the Commission solicits comments on whether the selective disclosure of portfolio holdings to a Trusted Agent, as well as the non-transparent structure of the Funds, could result in any information asymmetry that would be inconsistent with the Act or other federal securities laws or rules and regulations thereunder.

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–BatsBZX–2017–30 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–BatsBZX–2017–30. 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–BatsBZX–2017–30 and should be submitted on or before October 10, 2017. Rebuttal comments should be submitted by October 23, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[43]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–19808 Filed 9–15–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81602; File No. SR–IEX–2017–29]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Fees Pursuant to Rule 15.110

September 13, 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 August 30, 2017, the Investors Exchange LLC (''IEX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (''Act''),[4] and Rule 19b–4 thereunder,[5] Investors Exchange LLC (''IEX'' or ''Exchange'') is filing with the Commission a proposed rule change to make a correction to the Exchange Fee Schedule related to fees for executions that involve taking resting interest with non-displayed priority with a displayable order. The Exchange proposes to implement the change beginning on September 1, 2017. The text of the proposed rule change is available at the Exchange's Web site at *www.iextrading.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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule, pursuant to IEX Rule 15.110 (a) and (c), to make a correction related to the fees for executions that involve taking non-displayed resting interest with a displayable order. Subject to certain exceptions, the Exchange charges $0.0009 per share (or 0.30% of the total dollar value of the transaction for securities priced below $1.00) to Members for executions on IEX that include resting non-displayed interest[6] for both the liquidity providing and liquidity removing order (the ''Non-Displayed Match Fee'').[7] One such exception relates to certain displayable orders that remove non-displayed liquidity upon entry. The Exchange Fee Schedule provides that the Non-Displayed Match Fee is not charged for displayable orders[8] that remove non-displayed liquidity upon entry if, on a monthly basis, at least 90% of the liquidity removing MPID's aggregate executed shares of displayable orders added liquidity during the month

[43] 17 CFR 200.30–3(a)(57).

[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. 78s(b)(1).

[5] 17 CRF 240.19b–4.

[6] Non-displayed priority refers to an order or portion of a reserve order that is booked and ranked with non-display priority on the Order Book. *See* Rules 11.190(b)(3) and 11.190(b)(2).

[7] This pricing is referred to by the Exchange as the ''Non-Displayed Match Fee'' on the Fee Schedule with a Fee Code of 'I' which is provided by the Exchange on execution reports.

[8] *See* Rule 11.190(b)(3).

in question (the ''90% display discount'').[9]

On August 7, 2017, the Exchange filed an immediately effective rule change to reflect that the calculation used to determine if a Member's MPID(s) qualify for the 90% display discount is done on a per MPID basis (rather than a per Member basis, as originally reflected in the Fee Schedule).[10] The Exchange recently identified several typographical errors in the parenthetical in the single asterisked footnote related to the Non-Displayed Match Fee that describes the calculation of the 90% display discount. While the single asterisked footnote appurtenant to the Non-Displayed Match Fee is itself correct regarding the conditions of the 90% display discount, the parenthetical contains several typographical errors (as described below) and thus does not accurately reflect the exact calculation of such fee. Further, the rule change filing adopting the IEX Fee Schedule accurately described the application of the 90% display discount.[11]

Specifically, the parenthetical, which was intended to describe the mechanical calculation of the 90% display discount, contains several typographical errors. It currently states that the 90% display discount is applicable if a Member's execution reports reflect that the sum of executions with Fee Code L and a Last Liquidity Indicator (FIX tag 851) of '1' (Added Liquidity) (*i.e.,* collectively, the numerator), divided by the sum of executions with Fee Code L (*i.e.,* the denominator), is at least 90% for the calendar month. As currently written, the calculation as described in the parenthetical would include an MPID's non-displayable orders that take displayed liquidity in the denominator, because such orders would receive Fee Code ''L'' on their execution reports, which satisfies the conditions for inclusion in the denominator.[12] Thus, the current parenthetical describing the 90% display discount is not reflective of the Exchange's Fee Schedule, in that it is too broad in its description of the denominator of the 90% display discount.

Accordingly, the Exchange proposes to correct the parenthetical in the single asterisked footnote appurtenant to the Non-Displayed Match Fee in the IEX Fee Schedule to correctly describe the mechanical calculation of the 90% display discount as follows (proposed new language is underlined; proposed deletions are in brackets):

• * $0.0009 (0.30% of TDVT for <$1.00), otherwise FREE if Taking Non-Displayed Liquidity with a Displayable Order and at least 90% of TMVD, on a per MPID basis, was identified by IEX as Providing Displayed Liquidity (*i.e.,* the [Member's] MPID's execution reports reflect that the sum of executions with Fee Code L and a Last Liquidity Indicator (FIX tag 851) of '1' (Added Liquidity) *on orders with neither a Max Floor (FIX tag 111) equal to zero, nor a time-in-force (FIX tag 59) of '3' (IOC) or '4' (FOK),* divided by the sum of *all* executions *on orders with neither a Max Floor (FIX tag 111) equal to zero, nor a time-in-force (FIX tag 59) of '3' (IOC) or '4' (FOK)* [with Fee Code L], is at least 90% for the calendar month).

As modified, the parenthetical would make clear that all of an MPID's executions that receive Fee Code L and a Last Liquidity Indicator of '1' (which together indicate that an order added displayed liquidity) on all of an MPID's displayable orders (which necessarily includes all orders that have neither a Max Floor value of zero,[13] nor a time-in-force of immediate-or-cancel [14] or fill-or-kill time [15]) contribute to the numerator of the 90% display discount. Further, the denominator would be equal to the sum of all executions of an MPID's displayable orders (*i.e.,* all orders that have neither a Max Floor value of zero, nor a time-in-force of immediate-or-cancel or fill-or-kill time), regardless of the Fee Code and Last Liquidity Indicator. To provide additional clarity, the Exchange also proposes to revise the language describing the numerator to align such description with the proposed description of the denominator.

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6(b) [16] of the Act in general, and furthers the objectives of Sections 6(b)(4) [17] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. In addition, the Exchange believes that it is consistent with the Act to correct the Fee Schedule so that the Fee Schedule is accurate, avoiding any potential confusion among Members. The Exchange further believes that the correction to the Fee Schedule is reasonable, equitable, and not unfairly discriminatory because all similar situated Members will continue to be subject to the same fee structure. Moreover, the Exchange believes it is consistent with the Act to clarify the calculation used to determine the 90% display discount, so that the Exchange's Fee Schedule remains transparent and consistent with the expectations of its Members.

B. Self-Regulatory Organization's Statement on Burden on Competition

IEX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is designed to correct an inadvertent error rather than a competitive issue. The Exchange does not believe the proposed rule change will result in a burden on intramarket competition because all Members will continue to be subject to the Non-Displayed Match Fee and will be eligible for the 90% display discount in the same manner on a fair and consistent basis. While different fees will be assessed in some circumstances, these different fees are not based on the type of Member entering the order and all Members can submit any type of order. Lastly, the Exchange operates in a highly competitive environment in which market participants can readily favor competing venues if fee schedules at other venues are viewed as more favorable.

The Exchange also does not believe that the proposed rule change will result in any burden on intermarket competition because other venues are free to adopt comparable pricing.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

[9] However, in such transactions, the non-displayed liquidity adding interest will be subject to the Non-Displayed Match Fee. The Exchange also does not charge a fee where the adding and removing order originated from the same Exchange Member.

[10] *See* Securities and Exchange Act Release No. 81346 (August 8, 2017), 82 FR 37973 (August 14, 2017).

[11] *See* Securities Exchange Act Release No. 78550 (August 11, 2016), 81 FR 54873 (August 17, 2016).

[12] *See* the Investors Exchange Fee Schedule, Fee Code 'L', Taking Displayed Liquidity.

[13] A Max Floor of zero is an instruction not to display any portion of an order.

[14] *See* IEX Rule 11.190(c)(1).

[15] *See* IEX Rule 11.190(c)(2).

[16] 15 U.S.C. 78f.

[17] 15 U.S.C. 78f(b)(4).

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) [18] of the Act.

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) [19] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–IEX–2017–29 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–IEX–2017–29. 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–IEX–2017–29, and should be submitted on or before October 10, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Eduardo A. Aleman,

Assistant Secretary.

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[18] 15 U.S.C. 78s(b)(3)(A)(ii).

[19] 15 U.S.C. 78s(b)(2)(B).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81586; File No. SR–CBOE–2017–059]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the On-Floor Lead Market-Maker Program

September 12, 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 August 31, 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 and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the On-Floor Lead Market-Maker (''LMM'') program. The text of the proposed rule change is provided below.

(additions are italicized; deletions are [bracketed])

* * * * *

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Chicago Board Options Exchange, Incorporated

Rules

* * * * *

Rule 8.15. Lead Market-Makers

(a) No change.

(b) LMM Obligations: Each LMM must fulfill all the obligations of a Market-Maker under the Rules and satisfy each of the following requirements:

(i) Provide continuous electronic quotes (as defined in Rule 1.1 (ccc)) in at least the lesser of 99% of the non-adjusted option series or 100% of the non-adjusted option series minus one call-put pair, with the term ''call-put pair'' referring to one call and one put that cover the same underlying instrument and have the same expiration date and exercise price. This obligation does not apply to intra-day add-on series on the day during which such series are added for trading. Compliance with this quoting obligation applies to all of an LMM's appointed classes on each platform collectively. The Exchange will determine compliance by an LMM with this quoting obligation on a monthly basis. However, determining compliance with this obligation on a monthly basis does not relieve an LMM from meeting this obligation on a daily basis, nor does it prohibit the Exchange from taking disciplinary action against an LMM for failing to meet this obligation each trading day. In option classes in which both an On-Floor LMM and an Off-Floor DPM or Off-Floor LMM have been appointed, the On-Floor LMM will not be obligated to comply with this paragraph (b)(i) and instead will be obligated to comply with the obligations of Market-Makers in Rule 8.7(d). *In an option class in which the Exchange appointed an On-Floor LMM that has open-outcry obligations only, that On-Floor LMM will not be obligated to comply with this paragraph (b)(i) and instead will be obligated to comply with the obligations of Market-Makers in Rule 8.7(d) and have a designee in the class's crowd on the trading floor for the entire trading day (except for a de minimis amount of time);*

(ii)–(iv) No change.

(v) enter opening quotes within one minute of the initiation of an opening rotation in any series that is not open due to the lack of a quote (see Rule 6.2B(d)(i)(A) or (ii)(A)) and participate in other rotations described in Rule 6.2B (including the modified opening rotation set forth in Interpretation and Policy .01) or 24.13, as applicable. In option classes in which both an On-Floor LMM and an Off-Floor DPM or

Off-Floor LMM have been appointed, the obligation set forth in this paragraph (b)(v) will be that of the Off-Floor DPM or Off-Floor LMM and not the On-Floor LMM. *In an option class in which the Exchange appointed an On-Floor LMM that has open-outcry obligations only, that On-Floor LMM will not be obligated to comply with this paragraph (b)(v);*

(vi)–(viii) No change.

(c)–(d) No change.

. . . Interpretations and Policies:

.01 An LMM generally will operate on CBOE's trading floor (''On-Floor LMM''). However, as provided below, an LMM can request that the Exchange authorize the LMM to function remotely away from CBOE's trading floor (''Off-Floor LMM'') on a class-by-class basis.

(a)–(b) No change.

(c) Notwithstanding Rule 8.15(a)[,]: *(i)* in an option class in which an Off-Floor LMM or Off-Floor DPM has been appointed in accordance with this Rule 8.15 or Rule 8.83, as applicable, the Exchange in its discretion may also appoint an On-Floor LMM, which will be eligible to receive a participation entitlement under this Rule 8.15 with respect to orders represented in open outcry; *and (ii) in a class in which the Exchange does not grant an electronic participation entitlement pursuant to Rule 6.45(a)(ii) and in which the Exchange did not appoint an Off-Floor LMM or Off-Floor DPM, the Exchange may appoint an On-Floor LMM that has open-outcry obligations only.* If the Exchange in its discretion determines to reallocate a class in which an Off-Floor LMM or Off-Floor DPM has been appointed, the On-Floor LMM appointment will automatically terminate.

.02–.04 No change.

* * * * *

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the On-Floor LMM program. Currently, Rule 8.15, Interpretation and Policy .01 permits an LMM that is approved to operate as an Off-Floor LMM in one or more classes can request the Exchange authorize it to operate as an On-Floor LMM in those classes. Additionally, in an option class in which an Off-Floor LMM or Off-Floor Designated Primary Market-Maker (''DPM'') has been appointed in accordance with Rule 8.15 or Rule 8.83, respectively, the Exchange in its discretion may appoint an On-Floor LMM (which may be the same firm or different firm serving as the Off-Floor LMM or Off-Floor DPM), which will be eligible to receive a participation entitlement under Rule 8.15 with respect to orders represented in open outcry. Pursuant to Rule 8.15(b), in an option class in which both an On-Floor LMM and an Off-Floor DPM or Off-Floor LMM have been appointed, the On-Floor LMM will not be obligated to comply with the continuous electronic quoting obligation in subparagraph (i) or opening quoting obligation in subparagraph (v) (the Off-Floor LMM or Off-Floor DPM would be required to comply with those quoting obligations).

Pursuant to Rule 6.45(a)(ii), which permits the exchange to determine, on a class-by-class basis, certain priority overlays, including participation entitlements to LMMs (as well as DPMs and Preferred Market-Makers). The Exchange may grant an LMM a participation entitlement only if it has applied the priority customer overlay. LMMs operating on the trading floor may also receive a participation entitlement.[3] In exchange for eligibility to receive a participation entitlement, LMMs must, among other things, satisfy a heightened quoting obligation.[4] If the Exchange does not grant an electronic participation entitlement to a class, currently an LMM that operates off the floor is required to continue to satisfy the heightened electronic quoting obligation under the rules, even though it does not receive the benefit of an electronic participation entitlement (although it would continue to receive an open outcry participation entitlement if it also operates on the floor).

Therefore, under current Rules, the Exchange may appoint an On-Floor LMM in a class if there is also an Off-Floor LMM or Off-Floor DPM in that class (which, as noted above, the same firm or different firms may be operating as the On-Floor LMM and Off-Floor LMM or Off-Floor DPM). Additionally, the Rules provide an On-Floor LMM does not have to satisfy heightened electronic quoting standards if there is also an Off-Floor LMM or Off-Floor DPM in that class, who must satisfy those standards. However, the Rules do not expressly contemplate the Exchange appointing an On-Floor LMM in a class if it has not appointed an Off-Floor DPM or Off-Floor LMM in that class. Additionally, current Rules do not explicitly permit the Exchange to not impose a heightened electronic quoting obligation on an On-Floor LMM if there is no Off-Floor LMM or Off-Floor DPM (in other words, if the Exchange were to appoint an On-Floor LMM who operates only on the floor, and no Off-Floor LMM or Off-Floor DPM, the On-Floor LMM would still be required to satisfy heightened quoting standards). The proposed rule change explicitly states the Exchange may appoint an On-Floor LMM in a class, under specific circumstances (as further discussed below), even if there is no Off-Floor LMM or Off-Floor DPM in that class, which On-Floor LMM must satisfy certain floor-based obligations and is eligible for an open outcry participation entitlement, but will not have to satisfy heightened electronic quoting obligations and will not be eligible for an electronic participation entitlement. The proposed rule change merely expands the Exchange's flexibility with respect to appointing On-Floor LMMs in a circumstance not currently contemplated in the Rules—in classes in which it has not appointed an Off-Floor DPM or Off-Floor LMM—and specifies the obligations and entitlement in such a circumstance.

Specifically, the Exchange proposes to amend Rule 8.15, Interpretation and Policy .01 to permit the Exchange to appoint an On-Floor LMM to operate only on the trading floor with open-outcry obligations only in a class in which the Exchange appointed no Off-Floor LMM or Off-Floor DPM and does not grant an electronic participation entitlement pursuant to Rule 6.45(a)(ii) (in addition to classes in which the Exchange has appointed an Off-Floor

[3] *See* Rule 8.15(d).

[4] Generally, LMMs and DPMs must provide continuous electronic quotes (for 90% of the time) in at least the lesser of 99% of the non-adjusted series or 100% of the non-adjusted series minus one call-put pair, while Market-Makers must provide continuous electronic quotes (for 90% of the time) in at least 60% of the series in their appointed classes.

DPM or LMM).[5] The proposed rule change also amends Rule 8.15(b)(i) and (v) to provide an On-Floor LMM with open-outcry obligations only will not be obligated to comply with the continuous electronic quoting obligation in subparagraph (i) or opening quoting obligation in subparagraph (v), but must comply with the obligations of Market-Makers in Rule 8.7(d) and have a designee in the class's crowd on the trading floor for the entire trading day (except for a de minimis amount of time).[6]

The Exchange believes it is reasonable for an On-Floor LMM with open-outcry obligations only to be eligible for an open outcry entitlement, because priority customer orders in the book always receive priority over in-crowd market participants, including LMMs who may be eligible for an open outcry entitlement. Additionally, as proposed, the On-Floor LMM must satisfy the proposed heightened standard to be in the crowd for the entire trading day to be eligible for the open outcry entitlement.[7] The Exchange believes this standard is reasonable, as it understands On-Floor LMMs currently have designees present on the floor during the entire trading, because a designee must be present to participate in open outcry trades and receive open outcry participation entitlements on trades.[8]

If the Exchange eliminates an electronic participation entitlement from a class, the Exchange believes there is no incentive for a Market-Maker to satisfy a heightened electronic quoting standard in that class due to the allocation algorithm determined by the Exchange. The Exchange does not believe the open outcry participation entitlement is a sufficient benefit to balance the requirement to satisfy the heightened electronic quoting obligation (due to the significant electronic trading volume) if an LMM or DPM is not also receiving an electronic participation entitlement. However, the Exchange believes it will benefit price discovery in the trading crowd for an LMM to be present in that class if it is eligible to receive a participation entitlement, even though there may be no LMM streaming quotes remotely. The proposed rule change will permit the Exchange to appoint an LMM to a trading crowd in this circumstance with an appropriate balance of floor-based benefits and obligations, consistent with the LMM's on-floor role.

The proposed rule change permits the Exchange to appoint an On-Floor LMM as it already can do pursuant to current Rules, which is appoint an On-Floor LMM that must satisfy regular market-maker quoting obligations rather than heightened LMM quoting obligations and only receive an open outcry participation entitlement (with the expectation a designee of the LMM will have a presence on the trading floor for the entire trading day). The proposed rule change merely provides the Exchange with discretion to make such an appointment in a different circumstance not currently contemplated in the Rules—in a class with no Off-Floor DPM or Off-Floor LMM. The Exchange may make such an appointment in the limited circumstance of classes in which it does not grant an electronic participation entitlement, and it will consider, among other factors, electronic liquidity in the class prior to making such an appointment. An On-Floor LMM in such a class will be subject to the same obligations and receive the same benefits as current On-Floor LMMs in other classes, subject to a different heightened quoting standard of maintaining a floor presence all day (subject to a de minimis exception) (which is expected of current On-Floor LMMs). Any violation of the proposed heightened quoting standard will be subject to potential discipline under Chapter XVII.[9]

The Exchange notes current On-Floor LMMs in classes in which there is a different Off-Floor DPM or Off-Floor LMM, as well as On-Floor LMMs in classes with no Off-Floor DPM or Off-Floor LMM pursuant to the proposed rule change, are not subject to the heightened electronic quoting obligation or opening quoting obligation in Rule 8.15(b), but receive the participation entitlement in Rule 8.15(d). While there is no current obligation in the rules requiring an On-Floor LMM to have a designee on the floor during the entire trading day, the Exchange expects current On-Floor LMMs to do so and may consider trading floor presence when determining whether to renew an On-Floor LMM's term.[10]

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.[11] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[12] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[13] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed rule change promotes just and equitable principles of trade by creating a balance between the obligations imposed on and benefits provided to On-Floor LMMs that only operate on the trading floor and only have open-outcry obligations. The Exchange believes if an On-Floor LMM was obligated to satisfy a heightened continuous electronic quoting standard in a class in which there was no electronic participation entitlement, the obligations would outweigh the benefit of an open outcry entitlement. The proposed rule change imposes a more reasonable heightened open outcry obligation that balances the eligibility of the open outcry benefit, as the proposed rule change imposes an on-floor requirement to be eligible for the on-floor entitlement rather than an electronic quoting obligation unrelated to the corresponding potential entitlement.

The proposed rule change permits the Exchange to appoint an On-Floor LMM as it does pursuant to current Rules; it merely provides the Exchange with discretion to appoint an On-Floor LMM

[5] The Exchange may remove an On-Floor LMM in accordance with Rule 8.15 in the same manner as it may remove any other LMM appointed pursuant to Rule 8.15, including current On-Floor LMMs.

[6] For example, a de minimis time period may be the brief time during which a designee leaves the trading floor to purchase a beverage.

[7] *See* Rule 6.45(b)(i).

[8] If an On-Floor LMM has no designee on the trading floor at any time during the trading day, it could not receive an entitlement, as there is no one present to participate on any trade during that time. On-Floor LMMs may have multiple designees in the trading crowd.

[9] Exchange regulatory staff are present on the trading floor and may detect violations of this obligation. Additionally, pursuant to Rule 17.2(a), Trading Permit Holders (including those in a trading crowd) may submit complaints to the Regulatory Division alleging violations of this obligation.

[10] *See* Rule 8.15(a)(i) (a factor to be considered by the Exchange when selecting LMMs includes presence in the trading crowd).

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] *Id.*

in a different circumstance—in a class with no Off-Floor DPM or Off-Floor LMM. Current rules do not contemplate an On-Floor LMM in a class with no Off-Floor DPM or Off-Floor LMM. An On-Floor LMM in such a class will be subject to the same obligations and receive the same benefits as current On-Floor LMMs in other classes, subject to a different heightened quoting standard of maintaining a floor presence for the entire trading day (subject to a de minimis exception), although current On-Floor LMMs are similarly expected have a designee present on the trading floor for the entire trading day. The proposed rule change removes impediments to and perfects the mechanism of a free and open market by providing flexibility to have an LMM in the trading crowd, which enhances price discovery and provides potential price improvement, in a class in which there is no incentive for a Market-Maker to satisfy a heightened electronic quoting standard due to the allocation algorithm determined by the Exchange in that class.

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 believes it is appropriate to limit its ability to appoint an On-Floor LMM with open-outcry obligations only in classes in which it determines to have no electronic participation entitlement, as it wants to incentivize firms to remain LMMs (and provide liquidity) in the trading crowd when there is no incentive for firms to satisfy heightened electronic quoting standards. The Exchange will, among other factors, consider electronic liquidity in the class prior to making such an appointment. The Exchange believes the continued presence of an LMM in the trading crowd enhances price discovery and provides potential price improvement, and such requirement creates a balance with eligibility for an open outcry participation entitlement. The Exchange believes requiring an On-Floor LMM that operates only on the trading floor to satisfy heightened electronic quoting standards would outweigh the benefit of an open outcry only entitlement. The proposed rule change has no impact on intermarket competition, as it relates solely to the presence of an LMM on CBOE's trading floor.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) [14] of the Act and Rule 19b–4(f)(6) thereunder.[15]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [16] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [17] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that waiver of the 30-day operative delay would permit the Exchange to appoint an On-Floor LMM as of September 1, 2017, which in turn would permit the market to benefit sooner from enhanced price discovery and the potential for price improvement. Based on the foregoing, the Commission believes the waiver of the operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.[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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2017–059 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–2017–059. 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–

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 240.19b–4(f)(6)(iii).

[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).

2017–059, and should be submitted on or before October 10, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–19712 Filed 9–15–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81601; File No. SR–NYSEARCA–2017–104]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Equities Fees and Charges

September 13, 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 September 1, 2017, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Equities Fees and Charges (the ''Fee Schedule'') to (i) adopt an additional tiered credit applicable to Lead Market Makers (''LMMs'')[4] and to ETP Holders and Market Makers affiliated with the LMM that provide displayed liquidity to the NYSE Arca Book in Tape B Securities; and (ii) add a second way by which an ETP Holder or Market Maker could qualify for the Step Up Tier. The Exchange proposes to implement the proposed fee change on September 1, 2017.The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to adopt an additional tiered credit applicable to LMMs and to ETP Holders and Market Makers affiliated with the LMM that provide displayed liquidity to the NYSE Arca Book in Tape B Securities; and (ii) add a second way by which an ETP Holder or Market Maker could qualify for the Step Up Tier. The Exchange proposes to implement the proposed fee changes on September 1, 2017.

LMM Transaction Fees and Credits

The Exchange proposes to amend the Fee Schedule to adopt an additional tiered credit applicable to LMMs and to ETP Holders and Market Makers affiliated with the LMM that provide displayed liquidity to the NYSE Arca Book in Tape B Securities. The Exchange currently provides tier-based incremental credits for orders that provide displayed liquidity to the NYSE Arca Book in Tape B Securities. Specifically, LMMs that are registered as the LMM in Tape B Securities that have a consolidated average daily volume (''CADV'') in the previous month of less than 100,000 shares, or 0.0070% of Consolidated Tape B ADV, whichever is greater (''Less Active ETP Securities''), and the ETP Holders and Market Makers affiliated with such LMMs, currently receive an additional credit for orders that provide displayed liquidity to the Book in any Tape B Securities that trade on the Exchange.[5] The current incremental credits and volume thresholds are as follows:

- An additional credit of $0.0004 per share if an LMM is registered as the LMM in at least 300 Less Active ETP Securities
- An additional credit of $0.0003 per share if an LMM is registered as the LMM in at least 200 but less than 300 Less Active ETP Securities
- An additional credit of $0.0002 per share if an LMM is registered as the LMM in at least 100 but less than 200 Less Active ETP Securities

The number of Less Active ETP Securities for the billing month is based on the number of Less Active ETP Securities in which an LMM is registered as the LMM on the last business day of the previous month. The incremental credits also apply to ETP Holders and Market Makers affiliated with the LMM whose orders in Tape B Securities provide displayed liquidity to the NYSE Arca Book.

The Exchange proposes to adopt an additional tier pursuant to which LMMs and ETP Holders and Market Makers affiliated with the LMM that provide displayed liquidity to the NYSE Arca Book in Tape B Securities would receive an additional credit of $0.0001 per share if the LMM is registered as the LMM in at least 75 but less than 100 Less Active ETP Securities.

For example, currently, a LMM that provides liquidity to the NYSE Arca Book in a security for which the LMM is registered as the LMM which has a CADV in the previous month of at least 5,000,000 shares would receive a credit of $0.0033 per share. If that LMM is also registered as an LMM in 80 Less Active ETP Securities, the LMM would receive an incremental credit of $0.0001 per share under the proposed new rebate structure, for a total credit of $0.0034 per share. Additionally, if the affiliated ETP Holders and Market Makers of such LMM that provide displayed liquidity in Tape B Securities are a Tier 1 firm, they would receive a total credit of $0.0024 per share, *i.e.,* $0.0023 per share Tier 1 credit for orders that provide liquidity to the NYSE Arca Book plus $0.0001 per share for being registered as a LMM in 80 Less Active ETP Securities.

With the proposed additional tier, the Exchange hopes to provide incentives for increased trading in Less Active ETP Securities for the benefit of all market participants.

Step-Up Tier

The Exchange proposes to add a second way by which an ETP Holder or Market Maker could qualify for the existing Step Up Tier. Currently, to qualify for the Step Up Tier, ETP

[19] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The term ''Lead Market Maker'' is defined in Rule 1.1(w) to mean a registered Market Maker that is the exclusive Designated Market Maker in listings for which the Exchange is the primary market.

[5] The Exchange defines ''affiliate'' to ''mean any ETP Holder under 75% common ownership or control of that ETP Holder.'' *See* Fee Schedule, NYSE Arca Marketplace: General.

Holders and Market Makers, on a daily basis, measured monthly must:

(i) Directly execute providing average daily volume that is an increase of no less than 0.15% of US CADV[6] for that month over the ETP Holder's or Market Maker's providing average daily volume in July 2016, and

(ii) sets a new NYSE Arca Best Bid or Offer with at least 25% in each of the ETP Holder's or Market Maker's Tape A, Tape B and Tape C providing ADV.

ETP Holders and Market Makers that qualify for the Step Up Tier receive a $0.0029 per share credit for orders that provide liquidity to the Book for Tape A and Tape C Securities and $0.0028 per share credit for orders that provide liquidity to the Book for Tape B Securities.

As proposed, the Exchange would keep these qualifying requirements, and add a second way by which an ETP Holder or Market Maker could qualify for the Step Up Tier. As proposed, an ETP Holder or Market Maker could also qualify for the Step Up Tier if such ETP Holder or Market Maker, on a daily basis, measured monthly:

(i) Directly execute providing average daily volume that is an increase of no less than 0.15% of US CADV[3] for that month over the ETP Holder's or Market Maker's providing average daily volume in July 2016, and

(ii) sets a new NYSE Arca Best Bid or Offer with at least 20% in the ETP Holder's or Market Maker's Tape A providing ADV, at least 25% in the ETP Holder's or Market Maker's Tape B providing ADV, and at least 30% in the ETP Holder's or Market Maker's Tape C providing ADV, and

(iii) directly execute taking average daily volume of at least 15 million shares.

For example, an ETP Holder that has a providing ADV of 15 million shares in the Baseline Month would be required to execute, at a minimum, an additional 9.75 million shares of providing ADV if CADV is 6.5 billion shares in the billing month, or 0.15% over the Baseline Month, for a total providing ADV of 24.75 million shares for the billing month. Further, of the 24.75 million shares, assume 10.75 million shares are in Tape A Securities, and 7 million shares are each in Tape B and Tape C Securities. The ETP Holder would be required to have a providing ADV that sets a new BBO on the Exchange of at least 2.15 million shares in Tape A Securities, of at least 1.750 million shares in Tape B Securities, and of at least 2.1 million shares in Tape C Securities.

The Exchange believes that combining the existing providing average daily volume requirement with both specified setting Exchange Best Bid or Offer requirements, depending on whether the securities are Tape A, B, or C, and a requirement to meet certain volume of executing taking volume on the Exchange would encourage ETP Holders or Market Makers that are active traders on the Exchange to step up their provide volume to qualify for the Step Up Tier.

As an incentive for ETP Holders and Market Makers to direct their order flow to the Exchange, for the months of September 2017 and October 2017 only, the Exchange proposes adopting lower providing ADV criteria for ETP Holders and Market Makers to qualify for the Step Up Tier. For the month of September 2017 only, the ETP Holder or Market Maker would need to directly execute providing average daily volume that is an increase of no less than 0.05% of US CADV for that month over the ETP Holder's or Market Maker's providing average daily volume in July 2016.

Using the previous example, that ETP Holder would be required to execute, at a minimum, an additional 3.25 million shares of providing ADV, or 0.05% over the Baseline Month, for a total providing ADV of 18.25 million shares for that billing month. Further, of the 18.25 million shares, assume 10 million shares are in Tape A Securities, 5 million shares are in Tape B Securities and 3.25 million shares are in Tape C Securities. The ETP Holder would be required to have a providing ADV that sets a new BBO on the Exchange of at least 2 million shares in Tape A Securities, of at least 1.250 million shares in Tape B Securities, and of at least 0.975 million shares in Tape C Securities.

For the month of October 2017 only, the ETP Holder or Market Maker would need to directly execute providing average daily volume that is an increase of no less than 0.10% of US CADV for that month over the ETP Holder's or Market Maker's providing average daily volume in July 2016. For the months on and after November 2017, ETP Holders and Market Makers would need to meet the new proposed qualifying requirement of 0.15% of CADV.

Using the previous example, that ETP Holder would be required to execute, at a minimum, an additional 6.5 million shares of providing ADV, or 0.10% over the Baseline Month, for a total providing ADV of 21.5 million shares for the billing month. Further, of the 21.5 million shares, assume 12 million shares are in Tape A Securities, 7 million shares are in Tape B Securities and 2.5 million shares are in Tape C Securities. The ETP Holder would be required to have a providing ADV that sets a new BBO on the Exchange of at least 2.4 million shares in Tape A Securities, of at least 1.75 million shares in Tape B Securities, and of at least 0.75 million shares in Tape C Securities.

Because the goal of the Step-Up Tier is to incentivize ETP Holders and Market Makers to increase the orders sent directly to NYSE Arca and therefore provide liquidity that supports the quality of price discovery and promotes market transparency, the Exchange believes that the proposed new qualifying requirement for the Step Up Tier will provide an additional incentive for ETP Holders or Market Makers that are active traders on the Exchange to increase the orders sent to the Exchange that would provide liquidity.

* * * * *

The proposed changes are not otherwise intended to address any other issues, and the Exchange is not aware of any problems that member organizations would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[8] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed additional tier for Less Active ETP Securities is reasonable because the proposed credit of $0.0001 per share that would apply if an LMM is registered as the LMM in at least 75 but less than 100 Less Active ETP Securities would relate to displayed liquidity to the NYSE Arca Book in Tape B Securities, which would be identical to the type of volume to which the credit would apply.

The Exchange believes it is equitable and not unfairly discriminatory to establish an additional tier applicable to

[6] US CADV means United States Consolidated Average Daily Volume for transactions reported to the Consolidated Tape, excluding odd lots through January 31, 2014 (except for purposes of Lead Market Maker pricing), and excludes volume on days when the market closes early and on the date of the annual reconstitution of the Russell Investments Indexes. Transactions that are not reported to the Consolidated Tape are not included in US CADV.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4) and (5).

LMMs and to ETP Holders and Market Makers affiliated with the LMM, as all LMMs have the ability to qualify for the proposed rebate, and rebates would be provided equally to qualifying participants.

The proposed fee change is intended to encourage LMMs to promote price discovery and market quality in Less Active ETP Securities for the benefit of all market participants. The Exchange believes the proposed additional tier to the current rebate structure would allow LMMs that are registered as the LMM in a fewer number of Less Active ETP Securities to qualify for a rebate. The Exchange believes the proposed credit is reasonable and appropriate in that it is based on the amount of business transacted on the Exchange. The Exchange believes that providing the proposed additional credit to ETP Holders and Market Makers that are affiliated with a LMM that add liquidity in Tape B Securities to the Exchange is reasonable because the Exchange believes that by providing increased rebates to affiliated ETP Holders and Market Makers of a LMM, more LMMs will register to quote and trade in Less Active ETP Securities. The Exchange further believes the proposed incremental credit for adding liquidity is also reasonable because it will encourage liquidity and competition in Tape B Securities quoted and traded on the Exchange. Moreover, the Exchange believes that the proposed fee change will incentivize LMMs to register as an LMM in Less Active ETP Securities and thus, add more liquidity in these and other Tape B Securities to the benefit of all market participants. The Exchange also believes the lower requirement of the additional tier is reasonable because it may allow a greater number of LMMs and their affiliated ETP Holders and Market Makers to qualify for the proposed additional credit.

The Exchange believes the proposed incremental credit is equitable and not unfairly discriminatory because it is open to all ETP Holders and Market Makers affiliated with a LMM on an equal basis and provides a discount that is reasonably related to the value to the Exchange's market quality associated with higher volumes. The Exchange further believes that the proposed incremental rebate is not unfairly discriminatory because it is consistent with the market quality and competitiveness of benefits associated with the proposed fee program and because the magnitude of the additional rebate is not unreasonably high in comparison to the rebate paid with respect to other displayed liquidity-providing orders. The Exchange does not believe that it is unfairly discriminatory to offer increased rebates to LMMs as LMMs are subject to additional requirements and obligations (such as quoting requirements) that other market participants are not.

The Exchange also believes that allowing ETP Holders to receive enhanced credits based on activities of their affiliates is reasonable, equitable and not unfairly discriminatory because the Exchange believes that ETP Holders affiliated with LMMs may qualify to earn enhanced credits in recognition of their shared economic interest, which includes the heightened obligations and costs imposed on LMMs. ETP Holders unaffiliated with LMMs do not share the same type of economic interests. Further, ETP Holders not affiliated with a LMM have an opportunity to establish such affiliation by several means, including but not limited to, a business combination or the establishment of their own market making operation, which each unaffiliated firm has the potential to establish.

The Exchange believes that the proposed second way to qualify for the Step-Up Tier is equitable because it is open to all market participants on an equal basis and provides credits that are reasonably related to the value to an exchange's market quality associated with higher volumes. As stated above, the Exchange believes that the Step-Up Tier incentivizes market participants to increase the orders sent directly to NYSE Arca that would provide liquidity. Additional order flow that provides liquidity supports the quality of price discovery and promotes market transparency. The Exchange believes that adding a second way to qualify for the Step Up Tier would benefit market participants that already are active traders on the Exchange and whose increased order flow provides meaningful added levels of liquidity, thereby contributing to the depth and market quality on the Exchange. In addition, by offering a second way to qualify for the Step-Up Tier, the Exchange believes more market participants that are active traders on the Exchange may provide increased liquidity-providing order flow and more market participants would be eligible to receive the proposed credits for their orders.

Further, the Exchange believes that the proposal is reasonable and would create an added incentive for ETP Holders and Market Makers to execute additional orders on the Exchange. The Exchange believes it is reasonable to require ETP Holders and Market Makers' providing ADV set a new BBO on the Exchange of at least 20% of their Tape A providing ADV, at least 25% of their Tape B providing ADV, and at least 30% of their Tape C providing ADV as it would create an incentive for ETP Holders and Market Makers to improve displayed quotes on the Exchange, which would benefit all market participants. The Exchange believes that the proposed change is equitable and not unfairly discriminatory because providing incentives for orders that are executed on a registered national securities exchange would contribute to investors' confidence in the fairness of their transactions and would benefit all investors by deepening the Exchange's liquidity pool, supporting the quality of price discovery, promoting market transparency and improving investor protection. The Exchange further believes it is reasonable to require ETP Holders or Maker Makers to also directly execute taking average daily volume of at least 15 million shares because it would provide an incentive for market participants that are active traders on the Exchange to increase orders that provide liquidity on the Exchange, thereby further promoting price discovery on the Exchange.

The Exchange believes that adopting lower providing ADV criteria for September 2017 and October 2017 is reasonable because it may allow a greater number of ETP Holders and Market Makers to qualify for the proposed credits while also providing ETP Holders and Market Makers the opportunity to gradually increase their activity in order to qualify for the Step Up Tier. The Exchange believes that adopting lower providing ADV criteria for September 2017 and October 2017 is also equitable and not unfairly discriminatory because the lower criteria would apply uniformly to all ETP Holders and Market Makers during September 2017 and October 2017.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition. For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[9] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes that the proposed fee change would encourage increased

[9] 15 U.S.C. 78f(b)(8).

participation by LMMs in the trading of ETP securities generally and Less Active ETP Securities, in particular. The proposed change would also encourage the submission of additional liquidity to a public exchange, thereby promoting price discovery and transparency and enhancing order execution opportunities for ETP Holders and Market Makers.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. 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 this proposal promotes a competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [10] of the Act and subparagraph (f)(2) of Rule 19b–4 [11] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [12] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEARCA–2017–104 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–2017–104. 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–2017–104 and should be submitted on or before October 10, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–19810 Filed 9–15–17; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(2).

[12] 15 U.S.C. 78s(b)(2)(B).

[13] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15302 and #15303; FLORIDA Disaster Number FL–00130]

Presidential Declaration Amendment of a Major Disaster for the State of Florida

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Florida (FEMA–4337–DR), dated 09/10/2017.

Incident: Hurricane Irma.

Incident Period: 09/04/2017 and continuing.

DATES: Issued on 09/11/2017.

Physical Loan Application Deadline Date: 11/09/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 06/11/2018.

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, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Florida, dated 09/10/2017, is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Broward, Clay, Duval, Flagler, Palm Beach, Putnam, Saint Johns

Contiguous Counties (Economic Injury Loans Only):

Florida: Alachua, Baker, Bradford, Marion, Martin, Nassau, Okeechobee, Volusia

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2017–19734 Filed 9–15–17; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 15245 and #15246; NEW HAMPSHIRE Disaster Number NH–00038]

Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the State of New Hampshire

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of New Hampshire (FEMA–4329–DR), dated August 9, 2017.

DATES: Issued on September 11, 2017.

Physical Loan Application Deadline Date: 10/09/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 05/09/2018.

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, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of New Hampshire, dated 08/09/2017, is hereby amended to include the following areas as adversely affected by the disaster.

Incident: Severe Storms and Flooding.

Incident Period: 07/01/2017 through 07/02/2017.

Primary Counties: Coos.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2017–19735 Filed 9–15–17; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Class Waiver of the Nonmanufacturer Rule

AGENCY: U.S. Small Business Administration.

ACTION: Notice of Intent To Waive the Nonmanufacturer Rule for Positive Airway Pressure Devices and Supplies Manufacturing.

SUMMARY: The U.S. Small Business Administration (SBA) is considering granting a request for a class waiver of the Nonmanufacturer Rule (NMR) for Positive Airway Pressure Devices and Supplies Manufacturing. This U.S. industry comprises establishments primarily engaged in manufacturing Continuous Positive Airway Pressure (CPAP) devices, Bi-level Positive Airway Pressure (BiPAP) devices, and other products intended to treat sleep apnea by keeping a person's airways open during sleep. According to the request, no small business manufacturers supply this product to the Federal government. If granted, the class waiver would allow otherwise qualified regular dealers to supply the product of any manufacturer on a Federal contract set aside for small business, service-disabled veteran-owned small business (SDVOSB), women-owned small business (WOSB), economically disadvantaged women-owned small business (EDWOSB), or participants in the SBA's 8(a) Business Development (BD) program.

DATES: Comments and source information must be submitted by October 18, 2017.

ADDRESSES: You may submit comments and source information via the Federal Rulemaking Portal at *https://www.regulations.gov* under Docket ID SBA–2017–0006. If you wish to submit confidential business information (CBI) as defined in the User Notice at *http://www.regulations.gov,* please submit the information to Roman Ivey, Program Analyst, Office of Government Contracting, U.S. Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, and highlight the information that you consider to be CBI and explain why you believe this information should be held confidential. SBA will review the information and make a final determination as to whether or not the information will be published.

FOR FURTHER INFORMATION CONTACT: Roman Ivey, Program Analyst, by telephone at 202–401–1420; or by email at *roman.ivey@sba.gov.*

SUPPLEMENTARY INFORMATION: Section 8(a)(17) and 46 of the Small Business Act (Act), 15 U.S.C. 637(a)(17) and 657, and SBA's implementing regulations require that recipients of Federal supply contracts (except those valued between $3,500 and $150,000) set aside for small business, service-disabled veteran-owned small business (SDVOSB), women-owned small business (WOSB), economically disadvantaged women-owned small business (EDWOSB), or participants in the SBA's 8(a) Business Development (BD) program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule (NMR). 13 CFR 121.406(b). Sections 8(a)(17)(B)(iv)(II) and 46(a)(4)(B) of the Act authorize SBA to waive the NMR for a ''class of products'' for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1202(c), in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or been awarded a contract to supply the class of products within the last 24 months.

The SBA defines ''class of products'' based on a combination of (1) the six digit North American Industry Classification System (NAICS) code, (2) the four digit Product Service Code (PSC), and (3) a description of the class of products.

The SBA is currently processing a request to waive the NMR for Positive Airway Pressure Devices and Supplies under NAICS codes 339112 and 339113, PSC 6515. The public is invited to comment or provide source information on any small business manufacturers of this class of products that are available to participate in the Federal market. The public comment period will run for 30 days after the date of publication in the **Federal Register**.

More information on the NMR and Class Waivers can be found at *https://www.sba.gov/contracting/contracting-officials/non-manufacturer-rule/non-manufacturer-waivers.*

Dated: September 6, 2017.

Seán F. Crean,

Director, Office of Government Contracting.

[FR Doc. 2017–19457 Filed 9–15–17; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 10126]

Privacy Act of 1974; System of Records

AGENCY: Department of State.

ACTION: Notice of a New System of Records.

SUMMARY: Ombudsperson Mechanism Records includes information about individuals who have submitted requests relating to national security access to data transmitted to the United States pursuant to the Privacy Shield

Framework Ombudsperson Mechanism and any similar mechanism established between the United States and another country or countries. The system assists in the overall management of the request review process and the provision of responses thereto by facilitating accurate and up-to-date record keeping.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this system of records notice is effective upon publication, with the exception of the routine uses that are subject to a 30-day period during which interested persons may submit comments to the Department. Please submit any comments by October 18, 2017.

ADDRESSES: Questions can be submitted by mail or email. If mail, please write to: U.S Department of State; Office of Global Information Systems, Privacy Staff; A/GIS/PRV; SA–2, Suite 8100; Washington, DC 20522–0208. If email, please address the email to the Chief Privacy Officer, Margaret P. Grafeld, at *Privacy@state.gov*. Please write ''Ombudsperson Mechanism Records, State-83'' on the envelope or the subject line of your email.

FOR FURTHER INFORMATION CONTACT: Margaret P. Grafeld, Chief Privacy Officer; U.S. Department of State; Office of Global Information Services, A/GIS/PRV; SA–2, Suite 8100; Washington, DC 20522–0208.

SUPPLEMENTARY INFORMATION: None.

SYSTEM NAME AND NUMBER:

Ombudsperson Mechanism Records, State-83.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Department of State (''Department''), located at 2201 C Street NW., Washington, DC 20520, and within a government cloud provided, implemented, and overseen by the Department's Enterprise Server Operations Center (ESOC), 2201 C Street NW., Washington, DC 20520.

SYSTEM MANAGER(S):

International Communication and Information Policy Officer for Europe, Office of Communications & Information Policy, Bureau of Economic and Business Affairs; U.S. Department of State, 2201 C St. Washington, DC 20520. System Managers can be reached at (202) 647–8784.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(a) State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2708 *et seq.*); (b) Privacy Shield Framework (81 FR 51042).

PURPOSE(S) OF THE SYSTEM:

The EU–U.S. Privacy Shield Framework and the Swiss-U.S. Privacy Shield Framework create a mechanism for companies on both sides of the Atlantic to comply with EU data protection requirements when transferring personal data from the European Union and Switzerland, respectively, to the United States in support of transatlantic commerce. The Frameworks each established an Ombudsperson Mechanism to address appropriate inquiries by individuals relating to U.S. Intelligence Community access to personal data transmitted from the EU or Switzerland to the United States through Privacy Shield and related commercial transfer mechanisms. The information will be used by the Ombudsperson to ensure that requests are properly investigated and addressed in a timely manner, and that the relevant U.S. laws have been complied with or, if the laws have been violated, that the situation has been remedied.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals whose requests relating to national security access to data transmitted from the European Union to the United States under the Privacy Shield Framework (81 FR 51042), and the EU–U.S. Privacy Shield Ombudsperson Mechanism Regarding Signals Intelligence (''Ombudsperson Mechanism'') thereunder, are submitted by the ''EU individual complaint handling body'' to the Department. Individuals who submit requests relating to national security access to data transmitted under any similar mechanism established between the United States and another country or countries. The Privacy Act defines an individual at 5 U.S.C. 552a(a)(2) as a United States citizen or lawful permanent resident.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records may include biographic and contact information, such as name, address, email address, phone number, and information about residency or nationality, as well as other information that requesters and foreign government officials include in the requests submitted to the Department. The records also may include information about an individual's request and the processing of that request.

RECORD SOURCE CATEGORIES:

Individuals who submit requests for review under the Privacy Shield Ombudsperson Mechanism or similar arrangement are the primary source of record information, although that information is provided to the Department by the EU Individual Complaint Handling Body or corresponding body under similar arrangements. Additional information necessary to process individual requests may be provided by these bodies as well as other federal agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The information in Ombudsperson Mechanism Records may be disclosed:

A. To other Federal Agencies or bodies to facilitate the consideration, processing and resolution of requests consistent with Section 2 of the Ombudsperson Mechanism (accessed via *https://www.state.gov/e/privacyshield/ombud/*).

B. To an EU individual complaint handling body and any other complaint handling body established under a similar arrangement with another country to coordinate the discharge of commitments made therein. For example, the Privacy Shield Ombudsperson will communicate directly with the EU individual complaint handling body regarding requests submitted pursuant to the Ombudsperson Mechanism for reasons including acknowledging receipt of the request from the EU individual complaint handling body, requesting additional information necessary to perfect the request, and providing a final response. The EU individual complaint handling body will in turn be responsible for all communications with individuals who submit requests.

C. To a contractor of the Department having need for the information in the performance of the contract, but not operating a system of records within the meaning of 5 U.S.C. 552a(m).

D. To appropriate agencies, entities, and persons when (1) the Department of State suspects or has confirmed that there has been a breach of the system of records; (2) the Department of State has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Department of State (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department of State efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

E. To another Federal agency or Federal entity, when the Department of State determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

F. To an agency, whether federal, state, local or foreign, where a record indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, so that the recipient agency can fulfill its responsibility to investigate or prosecute such violation or enforce or implement the statute, rule, regulation, or order.

G. To the Federal Bureau of Investigation, the Department of Homeland Security, the National Counter-Terrorism Center (NCTC), the Terrorist Screening Center (TSC), or other appropriate federal agencies, for the integration and use of such information to protect against terrorism, if that record is about one or more individuals known, or suspected, to be or to have been involved in activities constituting, in preparation for, in aid of, or related to terrorism. Such information may be further disseminated by recipient agencies to Federal, State, local, territorial, tribal, and foreign government authorities, and to support private sector processes as contemplated in Homeland Security Presidential Directive/HSPD–6 and other relevant laws and directives, for terrorist screening, threat-protection and other homeland security purposes.

H. To a congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

I. To a court, adjudicative body, or administrative body before which the Department is authorized to appear when (a) the Department; (b) any employee of the Department in his or her official capacity; (c) any employee of the Department in his or her individual capacity where the U.S. Department of Justice (''DOJ'') or the Department has agreed to represent the employee; or (d) the Government of the United States, when the Department determines that litigation is likely to affect the Department, is a party to litigation or has an interest in such litigation, and the use of such records by the Department is deemed to be relevant and necessary to the litigation or administrative proceeding.

J. To the Department of Justice (''DOJ'') for its use in providing legal advice to the Department or in representing the Department in a proceeding before a court, adjudicative body, or other administrative body before which the Department is authorized to appear, where the Department deems DOJ's use of such information relevant and necessary to the litigation, and such proceeding names as a party or interests:

(a) The Department or any component of it;

(b) Any employee of the Department in his or her official capacity;

(c) Any employee of the Department in his or her individual capacity where DOJ has agreed to represent the employee; or

(d) The Government of the United States, where the Department determines that litigation is likely to affect the Department or any of its components.

K. To the National Archives and Records Administration and the General Services Administration: For records management inspections, surveys and studies; following transfer to a Federal records center for storage; and to determine whether such records have sufficient historical or other value to warrant accessioning into the National Archives of the United States.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored both in hard copy and on electronic media. A description of standard Department of State policies concerning storage of electronic records is found here *https://fam.state.gov/FAM/05FAM/05FAM0440.html.* All hard copies of records containing personal information are maintained in secured file cabinets in restricted areas, access to which is limited to authorized personnel only.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

By individual name or other personal identifier, if available, and by a tracking number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The Department of State is in the process of developing a retention schedule for these records. Once the schedule is approved by the National Archives and Records Administration, the Records will be retired in accordance with published Department of State Records Disposition Schedule that shall be published here: *https://foia.state.gov/Learn/RecordsDisposition.aspx.* More specific information may be obtained by writing to U.S. Department of State; Director, Office of Information Programs and Services; A/GIS/IPS; SA–2, Suite 8100; Washington, DC 20522–0208.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

All users are given cyber security awareness training that covers the procedures for handling Sensitive but Unclassified information, including personally identifiable information (PII). Annual refresher training is mandatory. In addition, all Foreign Service and Civil Service employees and those Locally Employed Staff who handle PII are required to take the Foreign Service Institute distance learning course instructing employees on privacy and security requirements, including the rules of behavior for handling PII and the potential consequences if it is handled improperly. Before being granted access to Ombudsperson Mechanism Records, a user must first be granted access to the Department of State computer system.

Department of State employees and contractors may remotely access this system of records using non-Department owned information technology. Such access is subject to approval by the Department's access program, and is limited to information maintained in unclassified information systems. Remote access to the Department's information systems is configured in compliance with OMB Circular A–130 multifactor authentication requirements and includes a time-out function.

All Department of State employees and contractors with authorized access to records maintained in this system of records have undergone a thorough background security investigation. Access to the Department of State, its annexes and posts abroad is controlled by security guards and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. While the majority of records in Ombudsperson Mechanism will be in an electronic format, paper mailings from the EU individual complaint handling body could be included in the system. All paper records containing personal information are maintained in secured file cabinets in restricted areas, access to which is limited to authorized personnel only. Access to computerized files is password-protected and under the direct supervision of the system manager. The system manager has the capability of printing audit trails of access from the computer media,

thereby permitting regular and ad hoc monitoring of computer usage.

When it is determined that a user no longer needs access, the user account is disabled. The Department of State will store records maintained in this system of records in cloud systems. All cloud systems that provide IT services and process Department of State information must be authorized to operate by the Department of State Authorizing Official and Senior Agency Official for Privacy. Only information that conforms with Department-specific definitions for FISMA low or moderate categorization are permissible for cloud usage unless specifically authorized by the Department's Cloud Computing Governance Board. The categorization of information in this system of records is designated as low. Prior to operation, all Cloud systems must comply with applicable security measures that are outlined in FISMA, FedRAMP, OMB guidance, NIST Federal Information Processing Standards (FIPS) and Special Publications, and Department of State policy and standards.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to or to amend records pertaining to themselves should write to U.S. Department of State; Director, Office of Information Programs and Services; A/GIS/IPS; SA–2, Suite 8100; Washington, DC 20522–0208. The individual must specify that he or she wishes the Ombudsperson Mechanism Records to be checked. At a minimum, the individual must include: Full name (including maiden name, if appropriate) and any other names used; current mailing address and zip code; date and place of birth; notarized signature or statement under penalty of perjury; a brief description of the circumstances that caused the creation of the record (including the city and/or country and the approximate dates) which gives the individual cause to believe that the Ombudsperson Mechanism Records include records pertaining to him or her. Detailed instructions on Department of State procedures for accessing and amending records can be found at *https://foia.state.gov/Request/Guide.aspx.*

CONTESTING RECORD PROCEDURES:

Individuals who wish to contest record procedures should write to U.S. Department of State; Director, Office of Information Programs and Services; A/GIS/IPS; SA–2, Suite 8100; Washington, DC 20522–0208.

NOTIFICATION PROCEDURES:

Individuals who have reason to believe that this system of records may contain information pertaining to them may write to U.S. Department of State; Director, Office of Information Programs and Services; A/GIS/IPS; SA–2, Suite 8100; Washington, DC 20522–0208. The individual must specify that he or she wishes the Ombudsperson Mechanism Records to be checked. At a minimum, the individual must include: Full name (including maiden name, if appropriate) and any other names used; current mailing address and zip code; date and place of birth; notarized signature or statement under penalty of perjury; a brief description of the circumstances that caused the creation of the record (including the city and/or country and the approximate dates) which gives the individual cause to believe that the Ombudsperson Mechanism Records include records pertaining to him or her.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

Mary R. Avery,

Senior Agency Official for Privacy, Senior Advisor, Office of Global Information Services, Bureau of Administration, Department of State.

[FR Doc. 2017–19818 Filed 9–15–17; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF STATE

[Public Notice: 10130]

Certification Related to Foreign Military Financing for Colombia Under Section 7045(b)(6) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2017

Pursuant to the authority vested in the Secretary of State, including under section 7045(b)(6) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2017 (Div. J, Pub. L. 115–31) I hereby certify and report that:

(1) The Peace Tribunal and other judicial bodies within the special jurisdiction for peace are independent and have authority to document ''truth declarations'' from perpetrators of gross violations of human rights and to sentence such perpetrators to meaningful sanctions, including victims' reparations, guarantee of non-repetition, and deprivation of liberty;

(2) Military personnel responsible for ordering, committing, or covering up cases of false positives, including those in command authority, are being investigated, prosecuted, and appropriately sanctioned, and military officers credibly alleged to have committed such crimes are removed from positions of command authority until the completion of judicial proceedings; and

(3) The Government of Colombia is continuing to dismantle illegal armed groups, taking effective steps to protect the rights of human rights defenders, journalists, trade unionists, and other social activists, and protecting the rights and territory of indigenous and Afro-Colombian communities.

This Certification shall be published in the **Federal Register** and, along with the accompanying Report and Memorandum of Justification, shall be transmitted to the appropriate committees of Congress.

Dated: September 11, 2017.

Rex W. Tillerson,

Secretary of State.

[FR Doc. 2017–19837 Filed 9–15–17; 8:45 am]

BILLING CODE 4710–29–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Senior Executive Service Performance Review Board Members

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The Office of the United States Trade Representative (USTR) is publishing the names of the members selected to serve on its Senior Executive Service Performance Review Board (PRB). This notice supersedes all previous PRB membership notices.

FOR FURTHER INFORMATION CONTACT: Ron Nerida, Human Capital Specialist, Office of Human Capital and Services, at (202) 395–7360 or *RNerida@ustr.eop.gov.*

SUPPLEMENTARY INFORMATION: Provisions of the Civil Service Reform Act of 1978, as amended (5 U.S.C. 4314(c)(1)–(5)), require USTR to establish a PRB to review and evaluate the initial appraisal of a senior executive's performance by the supervisor, and make recommendations regarding performance ratings to the United States Trade Representative or his designee. The Act (5 U.S.C. 4314(c)(4)) requires USTR to publish the PRB membership in the **Federal Register**. The following individuals have been selected to serve on USTR's PRB:

Chair: Lewis Karesh, Assistant U.S. Trade Representative for Trade and Labor.

Member: Barbara Weisel, Assistant U.S. Trade Representative for Southeast Asia and the Pacific.

Member: Sharon Bomer Lauritsen, Assistant U.S. Trade Representative for Agricultural Affairs.

Member: John Melle, Assistant U.S. Trade Representative for Western Hemisphere.

Member: Bill Jackson, Assistant U.S. Trade Representative for Textile Affairs.

Fred Ames,

Assistant U.S. Trade Representative for Administration, Office of the United States Trade Representative.

[FR Doc. 2017–19689 Filed 9–15–17; 8:45 am]

BILLING CODE 3290–F7–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on a Land Use Change From Aeronautical to Non-Aeronautical Use for 4.2 Acres of Airport Land for Solar Farm Use at Newport Airport, Middletown, RI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comments.

SUMMARY: Notice is being given that the FAA is considering a request from the Rhode Island Airport Corporation (RIAC), to change the current land use from aeronautical use to non-aeronautical use of a 4.2-acre parcel of land. The parcel is located in the western quadrant of the airport. The Airport Layout Plan was updated with a Pen and Ink Change to designate the parcel for non-aeronautical use. The annual savings in electrical costs created by the solar farm will offset the fair market value of the land lease over the lease period.

DATES: Comments must be received on or before October 16, 2017.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov,* and follow the instructions on providing comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W 12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Interested persons may inspect the request and supporting documents by contacting the FAA at the address listed under **FOR FURTHER INFORMATION CONTACT PERSON.**

FOR FURTHER INFORMATION CONTACT: Mr. Jorge E. Panteli, Compliance and Land Use Specialist, Federal Aviation Administration New England Region Airports Division, 1200 District Avenue, Burlington, Massachusetts 01803. Telephone: 781–238–7618.

Issued in Burlington, Massachusetts on September 6, 2017.

Richard Doucette,

Acting Manager, ANE–600.

[FR Doc. 2017–19782 Filed 9–15–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the Lehigh Valley International Airport (ABE), Allentown, Pennsylvania

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of request to release airport property for non-aeronautical purposes.

SUMMARY: The FAA proposes to rule and invite public comment on the release of land for non-aeronautical purposes at the Lehigh Valley International Airport (ABE), Allentown, Pennsylvania.

DATES: Comments must be received on or before October 18, 2017.

ADDRESSES: Comments on this application may be mailed or delivered to the following address: Ryan Meyer, Senior Aviation Planner, Lehigh Valley International Airport, 3311 Airport Road Allentown, Pennsylvania 18109; and at the FAA Harrisburg Airports District Office: Lori K. Pagnanelli, Manager, Harrisburg Airports District Office, 3905 Hartzdale Dr., Suite 508, Camp Hill, PA 17011.

FOR FURTHER INFORMATION CONTACT: Rick Harner, Civil Engineer, Harrisburg Airports District Office, location listed above.

The request to release property may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release airport property for non-aeronautical purposes at the Lehigh Valley International Airport under the provisions of Section 47125(a) of Title 49 U.S.C. On September 6, 2017, the FAA determined that the request to release airport property for non-aeronautical purposes at the Lehigh Valley International Airport (ABE), Pennsylvania, submitted by the Lehigh Northampton Airport Authority (Authority), met the procedural requirements. Final release of the property is subject to FAA's NEPA determination made on April 17, 2017.

The following is a brief overview of the request:

The Authority requests the release of a portion of airport property totaling 244.427 acres, which is no longer needed for aeronautical purposes. Of the total 244.427 acres, 174.887 acres are part of Parcel H–1, 49.068 acres are part of Parcel V, 16.177 acres are part of Parcel N–2, and 4.294 acres are part of Parcel X–2. These parcels are located in Allen Township and were originally included as part of larger property purchased with federal funds over multiple AIP grants.

The 244.427 acres requested for non-aeronautical use are to be released to the Rockefeller Group Development Corporation (Rockefeller Group), 500 International Drive North, Suite 345, Mt. Olive, NJ 07828. The property is located in the northwest corner of existing airport property and is being used for contract farming purposes. The undeveloped property is located in Allen Township at the intersection of Willowbrook Road and Race Street. As shown on ABE's approved Airport Layout Plan, the property does not serve an aeronautical purpose and is not needed for current or future airport development. The property was part of an inverse condemnation judgment against the Authority. The proceeds from the Fair Market Value (FMV) sale of the 244.427 acres of property will be used for eligible airport development purposes, as outlined in FAA Order 5190.6B, Airport Compliance Manual.

Any person may inspect the request by appointment at the FAA office address listed above. Interested persons are invited to comment on the proposed release. All comments will be considered by the FAA to the extent practicable.

Issued in Camp Hill, Pennsylvania, September 12, 2017.

Lori K. Pagnanelli,

Manager, Harrisburg Airports District Office.

[FR Doc. 2017–19785 Filed 9–15–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2017–0233]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemption; request for comments.

SUMMARY: FMCSA announces receipt of applications from 37 individuals for an exemption from the prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against persons with insulin-treated diabetes mellitus (ITDM) operating a commercial motor vehicle (CMV) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

DATES: Comments must be received on or before October 18, 2017.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2017–0233 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number(s) for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day e.t., 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the FMCSRs for a two year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the two year period.

The 37 individuals listed in this notice have requested an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3). Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding diabetes found in 49 CFR 391.41(b)(3) states that a person is physically qualified to drive a CMV if that person:

> Has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control.

The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population.

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled ''A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.'' The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441). The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305). Section 4129 requires: (1) Elimination of the requirement for three years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the three year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 U.S.C. 31136(e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary.

The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003, notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003, notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

II. Qualifications of Applicants

Jerry E. Blanchet

Mr. Blanchet, 61, has had ITDM since 2001. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Blanchet understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Blanchet meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Rhode Island.

Eric J. Brunke

Mr. Brunke, 43, has had ITDM since 1984. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Brunke understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Brunke meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Wisconsin.

Gregorio A. Climaco

Mr. Climaco, 57, has had ITDM since 2011. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Climaco understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Climaco meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Massachusetts.

Jeffrey S. Combs

Mr. Combs, 59, has had ITDM since 2017. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Combs understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Combs meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Illinois.

James W. Davis

Mr. Davis, 72, has had ITDM since 2016. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Davis understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Davis meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Montana.

Paul J. Dent

Mr. Dent, 54, has had ITDM since 2010. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Dent understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Dent meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Iowa.

Todd S. Gardner

Mr. Gardner, 38, has had ITDM since 1994. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Gardner understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gardner meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Florida.

Nathan T. Gintner

Mr. Gintner, 27, has had ITDM since 2016. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Gintner understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gintner meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds an operator's license from Wisconsin.

Ronald K. Glick

Mr. Glick, 53, has had ITDM since 2013. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist

certifies that Mr. Glick understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Glick meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Illinois.

Diosdado P. Godoy

Mr. Godoy, 56, has had ITDM since 2016. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Godoy understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Godoy meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Hawaii.

David E. Gordon, Jr.

Mr. Gordon, 49, has had ITDM since 2003. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Gordon understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gordon meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds an operator's license from Massachusetts.

Jimmie W. Grady

Mr. Grady, 52, has had ITDM since 2016. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Grady understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Grady meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from North Carolina.

Matthew S. Helm

Mr. Helm, 26, has had ITDM since 1996. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Helm understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Helm meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds an operator's license from Pennsylvania.

Alan B. Jackson

Mr. Jackson, 33, has had ITDM since 1988. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Jackson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Jackson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Ohio.

Dennis L. James

Mr. James, 67, has had ITDM since 2014. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. James understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. James meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Oregon.

Tony C. Johnson

Mr. Johnson, 62, has had ITDM since 2005. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Johnson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Johnson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds an operator's license from Arkansas.

Russell E. Jones, Jr.

Mr. Jones, 55, has had ITDM since 2015. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Jones understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Jones meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Florida.

Derrick D. LaRue

Mr. LaRue, 56, has had ITDM since 1997. His endocrinologist examined him

in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. LaRue understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. LaRue meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he has stable proliferative diabetic retinopathy. He holds an operator's license from Rhode Island.

Mark C. Lessman

Mr. Lessman, 56, has had ITDM since 2015. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Lessman understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lessman meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Illinois.

Ernest H.S. Louis

Mr. Louis, 58, has had ITDM since 2017. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Louis understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Louis meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from South Carolina.

Allen J. McNall

Mr. McNall, 43, has had ITDM since 1979. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. McNall understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. McNall meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from New York.

Ernest A. Mitchell

Mr. Mitchell, 75, has had ITDM since 2011. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Mitchell understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Mitchell meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Texas.

Irvin A. Moos

Mr. Moos, 73, has had ITDM since 2017. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Moos understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Moos meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from North Dakota.

Jose L. Pesina

Mr. Pesina, 54, has had ITDM since 2012. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Pesina understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Pesina meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Iowa.

Corey M. Salmon

Mr. Salmon, 47, has had ITDM since 2017. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Salmon understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Salmon meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class B CDL from Virginia.

Tony J. Shives

Mr. Shives, 61, has had ITDM since 1995. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Shives understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Shives meets the

requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Florida.

Joel M. Siegrist

Mr. Siegrist, 31, has had ITDM since 2001. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Siegrist understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Siegrist meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds an operator's license from Pennsylvania.

Andre B. Sims

Mr. Sims, 60, has had ITDM since 2017. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Sims understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Sims meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from North Carolina.

Roger K. Skeens

Mr. Skeens, 67, has had ITDM since 2017. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Skeens understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Skeens meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Indiana.

Shae A. Spilker

Mr. Spilker, 45, has had ITDM since 2016. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Spilker understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Spilker meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds an operator's license from Montana.

Dennis B. Strait

Mr. Strait, 67, has had ITDM since 2017. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Strait understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Strait meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New Jersey.

C. Edward Tanner

Mr. Tanner, 72, has had ITDM since 2013. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Tanner understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Tanner meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Mary Thomas

Ms. Thomas, 60, has had ITDM since 2002. Her endocrinologist examined her in 2017 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. Her endocrinologist certifies that Ms. Thomas understands diabetes management and monitoring has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Thomas meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her optometrist examined her in 2017 and certified that she does not have diabetic retinopathy. She holds a Class B CDL from Delaware.

Kyle R. Thompson

Mr. Thompson, 24, has had ITDM since 2013. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Thompson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Thompson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds an operator's license from California.

Jeffery W. Vaughan

Mr. Vaughan, 60, has had ITDM since 2017. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function

that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Vaughan understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Vaughan meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

John F. White

Mr. White, 53, has had ITDM since 2012. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. White understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. White meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New York.

Ronald E. Wolf

Mr. Wolf, 73, has had ITDM since 1986. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Wolf understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wolf meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Illinois.

III. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date's section of the notice.

IV. Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2017–0233 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and materials received during the comment period. FMCSA may issue a final determination at any time after the close of the comment period.

V. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2017–0233 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to this notice.

Issued on: September 11, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017–19763 Filed 9–15–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2017–0023]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemption; request for comments.

SUMMARY: FMCSA announces receipt of applications from 25 individuals for an exemption from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. If granted, the exemptions will enable these individuals to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

DATES: Comments must be received on or before October 18, 2017.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2017–0023 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number(s) for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter

provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the FMCSRs for a two year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the two year period.

The 25 individuals listed in this notice have requested an exemption from the vision requirement in 49 CFR 391.41(b)(10). Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding vision found in 49 CFR 391.41(b)(10) states that a person is physically qualified to drive a CMV if that person:

> Has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal Meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber.

In July 1992, the Agency first published the criteria for the Vision Waiver Program, which listed the conditions and reporting standards that CMV drivers approved for participation would need to meet (Qualification of Drivers; Vision Waivers, 57 FR 31458, July 16, 1992). The current Vision Exemption Program was established in 1998, following the enactment of amendments to the statutes governing exemptions made by § 4007 of the Transportation Equity Act for the 21st Century (TEA–21), Public Law 105–178, 112 Stat. 107, 401 (June 9, 1998). Vision exemptions are considered under the procedures established in 49 CFR part 381 subpart C, on a case-by-case basis upon application by CMV drivers who do not meet the vision standards of 49 CFR 391.41(b)(10).

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past three years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at Docket Number FMCSA–1998–3637.

FMCSA believes it can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrated the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (See 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used three consecutive years of data, comparing the experiences of drivers in the first two years with their experiences in the final year.

II. Qualifications of Applicants

Paul A. Bartels

Mr. Bartels, 73, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2017, his optometrist stated, ''In my opinion, he has sufficient vision to perform the daily tasks required to operate a commercial vehicle.'' Mr. Bartels reported that he has driven tractor-trailer combinations for 17 years, accumulating 1.8 million miles. He holds an operator's license from Wisconsin. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Harold J. Bartley, Jr.

Mr. Bartley, 49, has aphakia in his left eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2017, his optometrist stated, ''Mr. Bartley has sufficient vision to drive a commercial vehicle.'' Mr. Bartley reported that he has driven straight trucks for 13 years, accumulating 260,000 miles, and tractor-trailer combinations for nine years, accumulating 270,000 miles. He holds a Class A CDL from Kentucky. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Charles C. Berns

Mr. Berns, 54, has fibrotic scarring in his right eye due to a traumatic incident in childhood. The visual acuity in his right eye is hand motion, and in his left eye, 20/20. Following an examination in 2017, his optometrist stated, ''It is my opinion that this patient has stable, long-standing vision deficiency in the right eye only and has sufficient visual acuity and peripheral vision in the left eye to operate a commercial vehicle safely.'' Mr. Berns reported that he has driven straight trucks for 26 years, accumulating 39,000 miles, and tractor-trailer combinations for 56 years, accumulating 42,000 miles. He holds a Class A CDL from Iowa. His driving record for the last three years shows no

crashes and no convictions for moving violations in a CMV.

Eric L. Boyle, Jr.

Mr. Boyle, 31, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/80, and in his left eye, 20/20. Following an examination in 2017, his ophthalmologist stated, ''Based on today's exam, in my medical opinion the patient has sufficient vision to perform driving tasks required to operate a commercial vehicle.'' Mr. Boyle reported that he has driven straight trucks for six years, accumulating 273,000 miles. He holds an operator's license from Maryland. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Jeremiah E. Casey

Mr. Casey, 37, has a cataract in his right eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/100, and in his left eye, 20/20. Following an examination in 2017, his optometrist stated, ''In my medical opinion, Jeremiah Casey has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Casey reported that he has driven straight trucks for two years, accumulating 10,000 miles, and tractor-trailer combinations for seven years, accumulating 525,000 miles. He holds a Class A CDL from Missouri. His driving record for the last three years shows no crashes but one conviction for speeding in a CMV; he exceeded the speed limit by ten mph.

Leonard M. Cassieri

Mr. Cassieri, 69, has a prosthetic right eye due to a traumatic incident in 1975. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2017, his ophthalmologist stated, ''Patient has sufficient vision for driving and operating a commercial vehicle.'' Mr. Cassieri reported that he has driven straight trucks for 50 years, accumulating 110,000 miles, and tractor-trailer combinations for 50 years, accumulating 110,000 miles. He holds a Class A CDL from California. His driving record for the last three years shows one crash, which he was not cited for, and one conviction for speeding in a CMV; he exceeded the speed limit by 22 mph.

Mr. Randy J. Conrad

Mr. Conrad, 63, has a prosthetic right eye due to a traumatic incident in 1972. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2017, his optometrist stated, ''Based on these findings, I feel Randy J. Conrad has the visual abilities to continue operating a commercial motor vehicle in interstate commerce because the loss of his left eye occurred in 1972 and he has been driving a commercial vehicle since around 1973.'' Mr. Conrad reported that he has driven straight trucks for 40 years, accumulating two million miles, and tractor-trailer combinations for two years, accumulating 50,000 miles. He holds a Class A CDL from Iowa. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Jimmie E. Curtis

Mr. Curtis, 36, has had retinal neovascularization in his left eye since 2010. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2017, his ophthalmologist stated, ''In my medical opinion, he is visually capable of driving a commercial vehicle.'' Mr. Curtis reported that he has driven straight trucks for 16 years, accumulating 402,000 miles, and tractor-trailer combinations for 16 years, accumulating 402,000 miles. He holds a Class A CDL from New Mexico. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Daniel E. Delano

Mr. Delano, 60, has complete loss of vision in his right eye due to a traumatic incident in 1990. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2017, his optometrist stated, ''In my medical opinion, Mr. Daniel Delano has sufficient vision to perform the driving tasks to operate a commercial vehicle.'' Mr. Delano reported that he has driven straight trucks for five years, accumulating 190,000 miles. He holds an operator's license from Virginia. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Jonathan P. Edwards

Mr. Edwards, 42, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2017, his optometrist stated, ''In my medical opinion, Jonathan Edwards has sufficient vision to perform driving tasks for a commercial vehicle.'' Mr. Edwards reported that he has driven straight trucks for six years, accumulating 210,000 miles. He holds an operator's license from Pennsylvania. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

James A. Green

Mr. Green, 61, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/80. Following an examination in 2017, his optometrist stated, ''In my opinion, Mr. Green has sufficient vision to operate a commercial vehicle.'' Mr. Green reported that he has driven straight trucks for 35 years, accumulating 27,335 miles. He holds a Class A CDL from Illinois. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Richard Healy

Mr. Healy, 52, has retinal scarring in his left eye due to an infection in childhood. The visual acuity in his right eye is 20/20, and in his left eye, counting fingers. Following an examination in 2017, his ophthalmologist stated, ''In my medical opinion, Richard Healy has sufficient vision to perform all driving tasks required to operate a commercial vehicle.'' Mr. Healy reported that he has driven straight trucks for 14 years, accumulating 560,000 miles. He holds an operator's license from Maryland. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Tommy G. Hillis

Mr. Hillis, 63, has had a chorioretinal scar in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, light perception. Following an examination in 2017, his optometrist stated, ''In my medical opinion, Mr. Tommy Hillis has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Hillis reported that he has driven straight trucks for two years, accumulating 100,000 miles, and tractor-trailer combinations for 35 years, accumulating 2.5 million miles. He holds a Class A CDL from Texas. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Richard A. Honstad

Mr. Honstad, 44, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/50. Following an examination in 2017, his optometrist

stated, ''In my opinion Richard has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Honstad reported that he has driven straight trucks for 17 years, accumulating 144,000 miles. He holds an operator's license from Minnesota. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Stephen M. Lovell

Mr. Lovell, 61, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is count fingers, and in his left eye, 20/20. Following an examination in 2017, his ophthalmologist stated, ''He is safe to operate a commercial vehicle in my opinion, even though his vision is uniocular.'' Mr. Lovell reported that he has driven straight trucks for 38 years, accumulating 3.23 million miles. He holds a Class AM CDL from Texas. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Thomas P. Maio

Mr. Maio, 30, has had amblyopia in left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/70. Following an examination in 2017, his optometrist stated, ''In my professional opinion, Mr. Maio has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Maio reported that he has driven straight trucks for eight years, accumulating 600,000 miles, and tractor-trailer combinations for eight years, accumulating 4,000 miles. He holds a Class A CDL from Maine. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Carlos Marquez

Mr. Marquez, 49, has had a retinal detachment in his left eye due to a traumatic incident in 1975. The visual acuity in his right eye is 20/20, and in his left eye, hand motion. Following an examination in 2017, his ophthalmologist stated, ''Mr. Carlos Marquez has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Marquez reported that he has driven tractor-trailer combinations for ten years, accumulating one million miles. He holds a Class ABCD CDL from Wisconsin. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Jason L. McBride

Mr. McBride, 40, has complete loss of vision of his left eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2017, his optometrist stated, ''I believe he has adequate vision for operation of a commercial vehicle.'' Mr. McBride reported that he has driven tractor-trailer combinations for 16 years, accumulating 2.4 million miles. He holds a Class CA CDL from Michigan. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Dennis M. Olson

Mr. Olson, 55, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/125. Following an examination in 2017, his optometrist stated, ''In my medical opinion, Dennis Olson has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Olson reported that he has driven straight trucks for 20 years, accumulating 10,000 miles, and tractor-trailer combinations for 20 years, accumulating 8,000 miles. He holds a Class ABCD CDL from Wisconsin. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Kameron W. Quinalty

Mr. Quinalty, 27, has had macular coloboma in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2017, his optometrist stated, ''Mr. Quinalty exhibits excellent visual skills . . . in my professional opinion, based on the testing performed today, Mr. Quinalty should function well enough to continue drive [*sic*] commercially.'' Mr. Quinalty reported that he has driven straight trucks for seven years, accumulating 17,500 miles. He holds a Class B CDL from Arkansas. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Daniel C. Sagert

Mr. Sagert, 53, has complete loss of vision in his left eye due to a traumatic incident 1999. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2017, his optometrist stated, ''In my medical opinion, after evaluating Mr. Sagert with a formal eye examination on 4/26/2017 and field of vision test on 4/28/2017, Mr [sic] Sagert has sufficient vision to perform the driving tasks involved with operating a commercial vehicle.'' Mr. Sagert reported that he has driven straight trucks for 17 years, accumulating 442,000 miles, and tractor-trailer combinations for 17 years, accumulating 442,000 miles. He holds a Class ABCD CDL from Wisconsin. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Robert D. Steele

Mr. Steele, 55, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2017, his optometrist stated, ''In my opinion, this man has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Steele reported that he has driven tractor-trailer combinations for 37 years, accumulating 2.59 million miles. He holds a Class A CDL from Washington. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Richard C. Strassburg

Mr. Strassburg, 62, has phthisis bulbi in his right eye due to a traumatic incident in 2013. The visual acuity in his right eye is light perception, and in his left eye, 20/25. Following an examination in 2017, his ophthalmologist stated, ''I do believe that the patient does have sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Strassburg reported that he has driven straight trucks for 45 years, accumulating 450,000 miles, tractor-trailer combinations for 44 years, accumulating 3.3 million miles, and buses for two years, accumulating 20,000 miles. He holds a Class AM CDL from New York. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Jeremy E. Studebaker

Mr. Studebaker, 41, has had a prosthetic right eye since childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2017, his optometrist stated, ''In my opinion, Jeremy appears to have sufficient vision in his left eye to perform the driving tasks required to operate a commercial vehicle.'' Mr. Studebaker reported that he has driven straight trucks for 13 years, accumulating 130,000 miles. He holds an operator's license from Indiana. His driving record for the last

three years shows no crashes and no convictions for moving violations in a CMV.

Daniel D. Woodworth

Mr. Woodworth, 56, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/150. Following an examination in 2017, his optometrist stated, ''In my medical opinion, I do believe that the patient has sufficient vision to perform the driving task [*sic*] required to operate a commercial vehicle.'' Mr. Woodworth reported that he has driven straight trucks for 35 years, accumulating 700,000 miles, and tractor-trailer combinations for 25 years, accumulating 750,000 miles. He holds an operator's license from Louisiana. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

III. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comments from all interested persons on the exemption petitions described in this notice. We will consider all comments and material received before the close of business on the closing date indicated in the dates section of the notice.

IV. Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2017–0023 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and materials received during the comment period. FMCSA may issue a final determination at any time after the close of the comment period.

V. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2017–0023 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to this notice.

Issued on: September 11, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017–19759 Filed 9–15–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2017–0178]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt seven individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs in interstate commerce.

DATES: The exemptions were applicable on August 1, 2017. The exemptions expire on August 1, 2019.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

II. Background

On June 29, 2017, FMCSA published a notice announcing receipt of applications from seven individuals requesting an exemption from the epilepsy prohibition in 49 CFR 391.41(b)(8) and requested comments from the public (82 FR 29624). The public comment period ended on July 31, 2017, and no were received.

FMCSA has evaluated the eligibility of these applicants and determined that granting exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(8).

The physical qualification standard for drivers regarding epilepsy found in 49 CFR 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person:

> Has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria [1] to assist medical examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce. [49 CFR part 391, APPENDIX A TO PART 391—

[1] See *http://www.ecfr.gov/cgi-bin/text-idx?SID=e47b48a9ea42dd67d999246e23d97970&mc=true&node=pt49.5.391&rgn=div5#ap49.5.391_171.a* and *https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf.*

MEDICAL ADVISORY CRITERIA, section *H. Epilepsy: § 391.41(b)(8),* paragraphs 3, 4, and 5.]

III. Discussion of Comments

FMCSA received no comments in this proceeding. However, FMCSA was informed that the notice published on June 29, 2017, identified the driver but not their resident State. It has been corrected in this notice. Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the epilepsy/seizure standard in 49 CFR 391.41(b)(8) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

In reaching the decision to grant these exemption requests, FMCSA considered the 2007 recommendations of the Agency's Medical Expert Panel (MEP). The January 15, 2013, **Federal Register** notice (78 FR 3069) provides the current MEP recommendations which is the criteria the Agency uses to grant seizure exemptions.

The Agency's decision regarding these exemption applications is based on an individualized assessment of each applicant's medical information, including the root cause of the respective seizure(s) and medical information about the applicant's seizure history, the length of time that has elapsed since the individual's last seizure, the stability of each individual's treatment regimen and the duration of time on or off of anti-seizure medication. In addition, the Agency reviewed the treating clinician's medical opinion related to the ability of the driver to safely operate a CMV with a history of seizure and each applicant's driving record found in the Commercial Driver's License Information System (CDLIS) for commercial driver's license (CDL) holders, and interstate and intrastate inspections recorded in the Motor Carrier Management Information System (MCMIS). For non-CDL holders, the Agency reviewed the driving records from the State Driver's Licensing Agency (SDLA). A summary of each applicant's seizure history was discussed in the June 29, 2017, **Federal Register** notice (82 FR 29624) and will not be repeated in this notice.

These seven applicants have been seizure-free over a range of 8–36 years while taking anti-seizure medication and have maintained a stable medication treatment regimen for the last two years. In each case, the applicant's treating physician verified his or her seizure history and supports the ability to drive commercially.

The Agency acknowledges the potential consequences of a driver experiencing a seizure while operating a CMV. However, the Agency believes the drivers granted this exemption have demonstrated that they are unlikely to have a seizure and their medical condition does not pose a risk to public safety.

Consequently, FMCSA finds that in each case exempting these applicants from the epilepsy/seizure standard in 49 CFR 391.41(b)(8) is likely to achieve a level of safety equal to that existing without the exemption.

V. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must remain seizure-free and maintain a stable treatment during the two-year exemption period; (2) each driver must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) each driver must undergo an annual medical examination by a certified Medical Examiner, as defined by 49 CFR 390.5; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy of his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based upon its evaluation of the seven exemption applications, FMCSA exempts the following drivers from the seizure standard, 49 CFR 391.41(b)(11), subject to the requirements cited above:

Richard A. Bailey (IA)
Roosevelt J. Chambers (WA)
Donnie D. Kuck (MT)
Mark A. Parish (GA)
Mario A. Polomares (TX)
Rickie M. Rineer (PA)
Timothy Wolsieffer (PA)

In accordance with 49 U.S.C. 31315(b)(1), each exemption will be valid for two years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: September 8, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017–19757 Filed 9–15–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0381; FMCSA–2014–0382; FMCSA–2015–0115]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew exemptions for three individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to continue to operate CMVs in interstate commerce.

DATES: The renewed exemptions were applicable on June 10, 2017. The renewed exemptions will expire on June 10, 2019. Comments must be received on or before October 18, 2017.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2014–0381; FMCSA–2014–0382; FMCSA–2015–0115 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number(s) for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day e.t., 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for two years if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the two-year period.

The physical qualification standard for drivers regarding epilepsy found in 49 CFR 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person:

> Has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria to assist Medical Examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce. [49 CFR part 391, APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section H. Epilepsy: § 391.41(b)(8), paragraphs 3, 4, and 5.]

The three individuals listed in this notice have requested renewal of their exemptions from the Epilepsy and Seizure Disorders prohibition in 49 CFR 391.41(b)(8), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable two-year period.

II. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

III. Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application. In accordance with 49 U.S.C. 31136(e) and 31315, each of the three applicants has satisfied the conditions for obtaining an exemption from the Epilepsy and Seizure Disorder requirements and were published in the **Federal Register** (80 FR 60744; 80 FR 55164; 80 FR 57034). In addition, for Commercial Driver's License (CDL) holders, the Commercial Driver's License Information System (CDLIS) and the Motor Carrier Management Information System (MCMIS) are searched for crash and violation data. For non-CDL holders, the Agency reviews the driving records from the State Driver's Licensing Agency (SDLA). These factors provide an adequate basis for predicting each driver's ability to continue to safely operate a CMV in interstate commerce.

The three drivers in this notice remain in good standing with the Agency, have maintained their medical monitoring and have not exhibited any medical issues that would compromise their ability to safely operate a CMV during the previous two-year exemption period. FMCSA has concluded that renewing the exemptions for each of these applicants is likely to achieve a level of safety equal to that existing without the exemption. Therefore, FMCSA has decided to renew each exemption for a two-year period for the following applicants:

Monte J. DeRocini (PA)
Teddy H. Dixon (GA)
Bryan R. Jones (PA)

IV. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) Each driver must remain seizure-free and maintain a stable treatment during the two-year exemption period; (2) each driver must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) each driver must undergo an annual medical examination by a certified Medical Examiner, as defined by 49 CFR 390.5; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy of his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with

the goals and objectives of 49 U.S.C. 31136(e) and 31315.

V. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VI. Conclusion

Based upon its evaluation of the three exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the Epilepsy and Seizure Disorders requirement in 49 CFR 391.41 (b)(8). In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two years unless revoked earlier by FMCSA.

Issued on: September 8, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017–19762 Filed 9–15–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2017–0087]

Petition for Waiver of Compliance

Under part 211 of Title 49 Code of Federal Regulations (CFR), this provides the public notice that on August 10, 2017, the Fort Worth Transportation Authority (FWTA) on behalf of TexRail Commuter Railroad (TEXR) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations for the purchase of eight new trainsets from Stadler Bussnang AG (Stadler). Specifically, TEXR is requesting relief from 49 CFR part 229, Railroad Locomotive Safety Standards (§ 229.47); 49 CFR part 231, Railroad Safety Appliance Standards (§§ 231.14(a)(2), (b)–(d), (f), (g)); and 49 CFR part 238, Passenger Equipment Safety Standards (§ 238.305). FRA assigned the petition docket number FRA–2017–0087.

The TexRail commuter rail system consists of a single rail line, running from Fort Worth, Texas, to the Dallas-Fort Worth International Airport (DFW), a distance of 27-miles, with 9 stations. Service is scheduled to begin in December 2018.

TexRail will purchase eight new FLIRT Diesel Multiple Unit (DMU) trainsets manufactured by Stadler in Salt Lake City, Utah. The delivery of vehicles is expected to begin in October 2017 and end in May 2018. TexRail asserts that the FLIRT trainset is a service-proven design built to European design standards. It was first delivered to European customers in 2004. There are approximately 1,100 FLIRT trainsets in operation worldwide. TexRail vehicles will be the first FLIRT models in the United States. The new vehicles are designed and built to current European design and regulatory standards, which differ in several areas from current U.S. design standards and regulations. TexRail believes that the design characteristics of the Stadler FLIRT vehicles provide an equivalent or higher level of safety and security to the passengers and crew.

TexRail has organized its regulatory compliance efforts into two distinct but related parts: Part 1 represents the ''base'' compliance assessment effort (this petition) and Part 2 represents a separate petition to utilize Alternative Vehicle Technology crashworthiness technology as outlined in ''Technical Criteria and Procedures for Evaluating the Crashworthiness and Occupant Protection Performance of Alternatively-Designed Passenger Rail Equipment for Use in Tier I Service'' and the recent notice of proposed rulemaking (NPRM) on Passenger Equipment Safety Standards; Standards for Alternative Compliance and High-Speed Trainsets (81 FR 88006, December 6, 2016). Noting that certain provisions in 49 CFR part 231 pertaining to safety appliances are statutorily required, and therefore not subject to FRA's waiver authority, TEXR also requested that FRA exercise its authority under 49 U.S.C. 20306 to exempt TEXR from certain provisions of Chapter 203, Title 49 of the United States Code because the FLIRT DMU vehicles will be equipped with their own array of safety devices resulting in equivalent safety.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a new hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by November 2, 2017 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice for the privacy notice of regulations.gov.*

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2017–19687 Filed 9–15–17; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2013–0095]

Notice of Application for Approval To Discontinue or Modify a Railroad Signal System

Under part 235 of Title 49 of the Code of Federal Regulations (CFR) and 49 U.S.C. 20502(a), this provides the public notice that on July 27, 2017, the Grenada Railroad, LLC (GRYR) petitioned the Federal Railroad Administration (FRA) seeking extension

of the approval to discontinue or modify a signal system. FRA assigned the petition docket number FRA–2013–0095.

Applicant: Grenada Railroad, LLC, David Michaud, General Counsel, 118 South Clinton Street, Suite 400, Chicago, IL 60661.

The GRYR seeks an extension of FRA's approval to discontinue and remove of the automatic block signal (ABS) system between Southaven, Mississippi, milepost (MP) 403.0 and Grenada, Mississippi, MP 617.4.

The automatic block signal (ABS) system between Southaven, milepost (MP) 403.0 and Grenada, MS, MP 617.4 is out of service, but remains in place under conditions of FRA's February 2, 2016, decision letter.

The reasons given for the proposed changes were that the GRYR only operates one train a day at any given time, under Track Warrant Control (TWC), making the ABS redundant as well as expensive to maintain, with replacement parts becoming hard to acquire.

Grenada Railroad, LLC, was sold to the North Central Mississippi Regional Railroad Authority (NCMRRA). Iowa Pacific Railroad (IPRR) has been designated as the operating railroad for this property by the NCMRRA.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the Department of Transportation's Docket Operations Facility, 1200 New Jersey Ave. SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by November 2, 2017 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.transportation.gov/privacy.* See also *http://www.regulations.gov/privacyNotice* for the privacy notice of *regulations.gov.*

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2017–19683 Filed 9–15–17; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2017–0083]

Petition for Waiver of Compliance

The Federal Railroad Administration (FRA) is providing notice that on August 16, 2017, the Yadkin Valley Railroad submitted an Informational Filing (IF) pursuant to Title 49 Code of Federal Regulations (CFR) § 236.913(j). This submission was assigned docket number FRA–2017–0083.

The YVRR submitted an IF requesting FRA approval to conduct field testing of a Train Detection System supplied by Next Generation Rail Technologies S.L. (NGRT) at Bethania Road highway-rail crossing in Rural Hall, North Carolina. YVRR estimates that once installed, it will take seven days to configure the system to current rail traffic. After installation of the system, the proposed period of data collection will be approximately four months. YVRR asserts that its IF addresses all requirements of 49 CFR 236.913(j)(1), and that the system will be operating in shadow mode only to collect data, and will not interfere, impact, or communicate with the current signaling system.

A copy of the IF and any related documents have been placed in docket number FRA–2017–0083 and are available for public inspection online at *www.regulations.gov* and in person at the Department of Transportation's Docket Operations Facility, 1200 New Jersey Ave. SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2017–19686 Filed 9–15–17; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2017–0079]

Notice of Application for Approval To Discontinue or Modify a Railroad Signal System

Under part 235 of Title 49 of the Code of Federal Regulations (CFR) and 49 U.S.C. 20502(a), this provides the public notice that on July 14, 2017, Ann Arbor Railroad (AARR) and CSX Transportation, Inc. (CSXT) jointly petitioned the Federal Railroad Administration (FRA) seeking approval to discontinue or modify a signal system. FRA assigned the petition Docket Number FRA–2017–0079.

Applicants: Ann Arbor Railroad, Mr. John Vance, General Manager, Operations Office, 4058 Chrysler Drive, Toledo, Ohio 43608; CSX Transportation, Director Joint Facilities, 500 Water Street, Jacksonville, FL 32202.

AARR seeks to modify the Hallett Interlocking, at Toledo, Ohio, by converting power-operated switches numbers 13A, 13B, 15, and 21 to hand-operation. AARR signals 10L, 14R, 16L, 18L, 18R, 18RC, and 22R are to be retired with signals 10, 12, 14, 16, and 18 installed closer to the diamond. CSXT signals 2L, 4L, and 6R will become CSXT 2, 4, and 6, with new signal 8 installed. CSXT switch #20 to become CSXT switch #3.

This modification is to be done in conjunction with the CSXT positive train control (PTC) project.

A copy of the petition, as well as any written communications concerning the

petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by November 2, 2017 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.transportation.gov/privacy.* See also *http://www.regulations.gov/privacyNotice* for the privacy notice of *regulations.gov.*

Robert C. Lauby,

Associate Administrator for Safety, Chief Safety Officer.

[FR Doc. 2017–19684 Filed 9–15–17; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2017–0091]

Notice of Application for Approval To Discontinue or Modify a Railroad Signal System

Under part 235 of Title 49 of the Code of Federal Regulations (CFR) and 49 U.S.C. 20502(a), this document provides notice that on August 31, 2017, Norfolk Southern Corporation (NS) petitioned the Federal Railroad Administration (FRA) seeking approval to discontinue or modify a signal system. FRA assigned the petition Docket Number FRA–2017–0091.

Applicant: Norfolk Southern Corporation, Mr. B.L. Sykes, Chief Engineer C&S Engineering, 1200 Peachtree Street NE., Atlanta, GA 30309.

NS seeks to discontinue the signal system on the Meadville Line between Greenville, PA, milepost (MP) MI 128.6 and control point (CP) Hubbard MP MI 150.8 at Hubbard, OH.

This includes CP Cole, CP Sharpsville, two head block signals and 18 automatic signals. New operative approach signals will be placed at MP Ml 148.6 in approach to CP Hubbard and at MP Ml 133.8 in approach to Shenango.

The main track between MP Ml 128.6 and CP Hubbard MP Ml 150.8 will be converted to NS Rule 171 operation. The sidings within the application limits at Cole, Budd, Clark and Sharpsville will be made noncontrolled, other than main track.

The reason for the proposed change is that operations no longer require a signal system.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by November 2, 2017 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of *regulations.gov.*

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2017–19688 Filed 9–15–17; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2002–14084]

Petition for Waiver of Compliance

Under Part 211 of Title 49 Code of Federal Regulations (CFR), this provides

the public notice that on August 29, 2017, the San Luis Central Railroad (SLC) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 223. FRA assigned the petition docket number FRA–2002–14084.

Specifically, the SLC seeks to renew an existing waiver of compliance from the glazing regulations in 49 CFR 223.11, *Requirements for existing locomotives,* for two locomotives, identified as SLC 70 and SLC 71. The SLC is located in Monte Vista, Colorado, and operates a short line railroad with yard limits of 13 miles. Both locomotives operate at a speed not exceeding 10 miles per hour. Both locomotives are presently equipped with laminated tinted glass with 0.030″ lamination and an AS–1 rating. The SLC represents that the locomotives and glazing are in good condition, and there is no record of vandalism on SLC property.

Since SLC's original waiver was granted in 2003, there have been no accidents, incidents, or injuries to employees that involved the window glazing of locomotives SLC 70 and SLC 71.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by October 18, 2017 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.transportation.gov/privacy.* See also *http://www.regulations.gov/privacy Notice* for the privacy notice of *regulations.gov.*

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2017–19682 Filed 9–15–17; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2017–0082]

Notice of Application for Approval To Discontinue or Modify a Railroad Signal System

Under part 235 of Title 49 of the Code of Federal Regulations (CFR) and 49 U.S.C. 20502(a), this document provides the public notice that on August 21, 2017, the Denver Regional Transportation District Commuter Rail (RTDC) petitioned the Federal Railroad Administration (FRA) seeking approval to discontinue or modify a signal system. FRA assigned the petition Docket Number FRA–2017–0082.

Applicant: Regional Transportation District Commuter Rail, Mr. Allen W. Miller, Senior Manager, Commuter Rail, Contracted Services, 1560 Broadway, Suite 600, Denver, Colorado 80202.

The Regional Transportation District (RTD) is the owner of the line segment and BNSF Railway (BNSF) and the National Railroad Passenger Corporation (Amtrak) are the operators. RTDC seeks to modify the Automatic Block Signal (ABS) and Traffic Control System (TCS) on the BNSF and RTDC line segment between the 41D and 43D derails, switch 29, and the 8S signal, on the East and West Yard Track segments near Denver Union Station (DUS) Interlocking, between MP 0.00 and MP 0.49.

The application states that BNSF uses this 500-foot line segment between the 41D and 43D derails, switch 29, and the 8S signal primarily for locomotive switching moves and Amtrak operates on this line segment to move in and out of DUS Tracks #4 and #5 for passenger operations.

The current signal system design uses the 41D, East yard track, and 43D West yard track, switch indication lights to govern traffic in advance of the derails on the yard tracks and in approach to the 8S signal at DUS Interlocking. The 41D and 43D derails and switch 29 are interlocked with the 8S signal at DUS Interlocking. The violation of the 8S signal, toward DUS, is safeguarded by the 49D derail.

Disconnecting the circuitry of the 41D and 43D derail and switch 29 from 8S signal at DUS Interlocking is proposed in order to comply with provisions of 49 CFR part 236. The application goes on to describe the work that would be done if approved. All existing home signals will be retained. The 41D and 43D derails, switch 29, and associated switch indication lights will remain powered but will be controlled and monitored independently from the DUS Interlocking. The movement of switch 29 will be electrically tied to the 41D and 43D derails. Positioning of switch 29 will be determined by the position of the corresponding derail, aligning to the derail which is in the non-derailing position and locked. Although the switch and derails will be removed from the DUS Interlocking logics, a minimum of two indications from switch 29—switch position and the locked indication—will be established in order to provide safe routing through DUS between the platform and beyond the 41D and 43D derails in both directions. The design will be fail-safe. Sufficient provision will exist to protect unauthorized access to DUS Interlocking via the 49D derail to protect against any train that may violate the 8S signal at DUS Interlocking. As an additional safety measure a minimum of 100 feet of center gauge restraining rail will be installed south of the 49D derail, toward DUS, to protect against incursion into the RTDC tracks.

The reasons given by RTDC for the proposed changes are improvements to reliability and safety, expedited train movements, and compliance with 49

CFR part 236 for present train operations.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by November 2, 2017 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of *regulations.gov.*

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2017–19685 Filed 9–15–17; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Sanctions Actions Pursuant to Executive Order 13581

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of persons whose property and interests in property have been unblocked pursuant to Executive Order 13581 of July 24, 2011, ''Blocking Property of Transnational Criminal Organizations.''

DATES: OFAC's actions described in this notice took place on February 16, 2017.

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 list of Specially Designated Nationals and Blocked Persons (SDN List) and additional information concerning OFAC sanctions programs are available from OFAC's Web site at *http://www.treasury.gov/ofac.*

Notice of OFAC Actions

On February 16, 2017, OFAC removed from the SDN List the persons listed below, whose property and interests in property were blocked pursuant to Executive Order 13581.

Individuals

1. SNYMAN, Estelle, Shannon Airport House, Shannon, County Clare, Ireland; DOB 01 Nov 1964 to 30 Nov 1964 (individual) [TCO] (Linked To: PACNET HOLDINGS LIMITED; Linked To: PACNET GROUP).

2. WEEKES, Brian, Attyterilla, Ballygriffey Road, Ruan, County Clare, Ireland; DOB 18 Feb 1963 (individual) [TCO] (Linked To: PACNET EUROPE; Linked To: PACNET GROUP).

Dated: February 16, 2017.

Andrea Gacki,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2017–19634 Filed 9–15–17; 8:45 am]

BILLING CODE 4810–AL–P

FEDERAL REGISTER

Vol. 82 Monday,
No. 179 September 18, 2017

Part II

The President

Federal Register
Vol. 82, No. 179
Monday, September 18, 2017

Presidential Documents

Title 3—

The President

Proclamation 9637 of September 13, 2017

National Hispanic Heritage Month, 2017

By the President of the United States of America

A Proclamation

During National Hispanic Heritage Month, we celebrate the accomplishments of Hispanic Americans who have helped shape our great Nation. We are grateful for the many contributions Hispanic American men and women make to our society and the vibrancy they weave into our American culture.

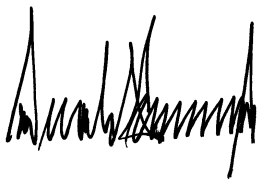
From America's earliest days, Hispanic Americans have played a prominent and important role in our national heritage, and Hispanic Americans continue to embody the pioneering spirit of America today. Demonstrating a steadfast commitment to faith, family, and hard work, Hispanic Americans lift up our communities and our economy as entrepreneurs, executives, and small business owners, and make contributions in areas such as science, art, music, politics, academia, government, and sports. In fact, Hispanic-owned small businesses are the fastest growing businesses in America, starting at a pace 15 times the national average over the last decade. Hispanic Americans own more than three million American businesses and serve with honor in all branches of the Armed Forces, continuing a strong legacy of dedication to our country that has seen the Medal of Honor awarded to 60 Hispanic Americans. Hispanic Americans are a testament to the American promise that anyone can succeed in the United States through hard work.

Hispanic Americans strengthen our bonds with our Latin American neighbors, with whom we share a rich history. We are united with them in hemispheric solidarity, based on a shared commitment to democratic principles. To secure a more prosperous, free Western Hemisphere, we are working to advance and maintain democracy in the region and secure free and fair trade among our regional partners. My Administration is dedicated to securing human rights in Cuba and Venezuela, and strengthening our cultural and philosophical ties with all our Latin American partners.

This month, we recognize the countless contributions of Hispanic Americans that help make our Nation a thriving and secure land of opportunity. To honor the achievements of Hispanic Americans, the Congress by Public Law 100–402, as amended, has authorized and requested the President to issue annually a proclamation designating September 15 through October 15 as ''National Hispanic Heritage Month.''

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 15 through October 15, 2017, as National Hispanic Heritage Month. I call upon public officials, educators, librarians, and all Americans to observe this month with appropriate ceremonies, activities, and programs.

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



[FR Doc. 2017–20003
Filed 9–15–17; 11:15 am]
Billing code 3295–F7–P

Presidential Documents

Proclamation 9638 of September 13, 2017

National POW/MIA Recognition Day, 2017

By the President of the United States of America

A Proclamation

Americans are blessed with many freedoms thanks to the hard-earned battle victories and tremendous sacrifices of our military men and women. The members of our Armed Forces shine a light of freedom throughout the world, and as we celebrate our returning heroes, we also remember our heroes who never returned home. On National POW/MIA Recognition Day, our Nation recognizes all American prisoners of war and service members missing in action who have valiantly honored their commitment to this great country.

It is our sacred obligation to pay tribute to the thousands of men and women of our Armed Forces who have been imprisoned while serving in conflicts and who have yet to return to American soil. We reflect on the brave Americans who, while guarding our freedom and our way of life, spent years of their youth imprisoned in distant lands. They paid an enormous price and remained dedicated to our sacred principles, even while under extreme duress.

We do not leave our fellow man or woman behind, and we do not rest until our mission is complete. For more than three decades, our country has conducted investigation and recovery operations in Southeast Asia with the help of the governments of Vietnam, Laos, and Cambodia. Whether in Southeast Asia, or in South Korea, Europe, the South Pacific, and in all other corners of the globe, we are committed to this most honorable mission of fully accounting for our missing personnel. We are encouraged by the progress made, but know our mission is ongoing until every Soldier, Sailor, Airman, Coast Guardsman, and Marine missing in the line of duty is accounted for.

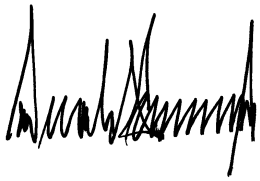
As Commander in Chief, it is my solemn duty to keep all Americans safe. I will never forget our heroes held prisoner or who have gone missing in action while serving their country. Today, we recognize not just the tremendous sacrifices of our service members, but also those of their families who still seek answers. We are steadfastly committed to bringing solace to those who wait for the fullest possible accounting of their loved ones.

On September 15, 2017, the stark black and white banner symbolizing America's Missing in Action and Prisoners of War will be flown over the White House; the United States Capitol; the Departments of State, Defense, and Veterans Affairs; the Selective Service System Headquarters; the World War II Memorial; the Korean War Veterans Memorial; the Vietnam Veterans Memorial; United States post offices; national cemeteries; and other locations across our country. We raise this flag as a solemn reminder of our obligation to always remember the sacrifices made to defend our Nation.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 15, 2017, as National POW/MIA Recognition Day. I call upon the people of the United States to join me in saluting all American POWs and those missing in action who valiantly served our country. I call upon Federal, State, and

local government officials and private organizations to observe this day with appropriate ceremonies and activities.

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



[FR Doc. 2017–20004
Filed 9–15–17; 11:15 am]
Billing code 3295–F7–P

Presidential Documents

Order of September 13, 2017

Regarding the Proposed Acquisition of Lattice Semiconductor Corporation by China Venture Capital Fund Corporation Limited

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 721 of the Defense Production Act of 1950, as amended (section 721), 50 U.S.C. 4565, it is hereby ordered as follows:

Section 1. *Findings.* (a) There is credible evidence that leads me to believe that (1) Canyon Bridge Merger Sub, Inc., a corporation organized under the laws of Delaware (Merger Sub); (2) Merger Sub's parent companies Canyon Bridge Acquisition Company, Inc., a corporation organized under the laws of Delaware (Acquisition Company), Canyon Bridge Capital Investment Limited, an entity organized under the laws of the Cayman Islands (Capital Investment), and Canyon Bridge Fund I, LP (CBFI), a limited partnership organized under the laws of Delaware; and (3) CBFI's limited partner Yitai Capital Limited, a company organized under the laws of Hong Kong (Yitai), and Yitai's parent company China Venture Capital Fund Corporation Limited, a corporation organized under the laws of the People's Republic of China (CVCF and, together with Merger Sub, Acquisition Company, Capital Investment, CBFI, and Yitai, the Purchasers), through exercising control of Lattice Semiconductor Corporation, a corporation organized under the laws of Delaware (Lattice), might take action that threatens to impair the national security of the United States; and

(b) Provisions of law, other than section 721 and the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), do not, in my judgment, provide adequate and appropriate authority for me to protect the national security in this matter.

Sec. 2. *Actions Ordered and Authorized.* On the basis of the findings set forth in section 1 of this order, considering the factors described in subsection 721(f) of the Defense Production Act of 1950, as appropriate, and pursuant to my authority under applicable law, including section 721, I hereby order that:

(a) The proposed acquisition of Lattice by the Purchasers (the proposed transaction) is prohibited, and any substantially equivalent transaction, whether effected directly or indirectly by the Purchasers, through the Purchasers' shareholders or shareholders' immediate, intermediate, or ultimate foreign person beneficial owners, or through the Purchasers' subsidiaries, is also prohibited.

(b) The Purchasers and Lattice shall take all steps necessary to fully and permanently abandon the proposed transaction not later than 30 days after the date of this order, unless such date is extended by the Committee on Foreign Investment in the United States (CFIUS) for a period not to exceed 90 days, on such conditions as CFIUS may require. Immediately upon completion of all steps necessary to terminate the proposed transaction, the Purchasers and Lattice shall certify in writing to CFIUS that such termination has been effected in accordance with this order and that all steps necessary to fully and permanently abandon the proposed transaction have been completed.

(c) From the date of this order until the Purchasers and Lattice provide a certification of termination of the proposed transaction to CFIUS pursuant to subsection (b) of this section, the Purchasers and Lattice shall certify to CFIUS on a weekly basis that they are in compliance with this order and include with that certification a description of all efforts to permanently abandon the proposed transaction and a timeline for projected completion of remaining actions necessary to effectuate the abandonment.

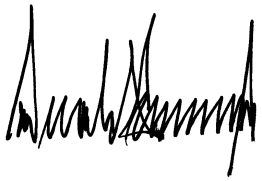
(d) Any transaction or other device entered into or employed for the purpose of, or with the effect of, avoiding or circumventing this order is prohibited.

(e) The Attorney General is authorized to take any steps necessary to enforce this order.

Sec. 3. *Reservation.* I hereby reserve my authority to issue further orders with respect to the Purchasers or Lattice as shall in my judgment be necessary to protect the national security of the United States.

Sec. 4. *Publication and Transmittal.* (a) This order shall be published in the *Federal Register*.

(b) I hereby direct the Secretary of the Treasury to transmit a copy of this order to the parties to the proposed transaction named in section 1 of this order.



THE WHITE HOUSE,
September 13, 2017.

[FR Doc. 2017–20005
Filed 9–15–17; 11:15 am]
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FEDERAL REGISTER PAGES AND DATE, SEPTEMBER

CFR PARTS AFFECTED DURING SEPTEMBER

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3 CFR

Proclamations:
9632 42019
9633 42231
9634 42439
9635 43293
9636 43295
9637 43661
9638 43663

Administrative Orders:
Notices:
Notice of September 11, 2017 43153
Order of September 13, 2017 43665
Presidential Determinations:
No. 2017–11 of September 8, 2017 42927

5 CFR

Proposed Rules:
1600 42613
1601 42613
1603 42613
1605 42613
1650 42613
1690 42613

7 CFR

301 41825
319 ..... 42727, 43155
922 43297
930 41827
1205 41829

Proposed Rules:
927 43504

8 CFR

212 41867

Proposed Rules:
Ch. I 42751

9 CFR

94 42729
300 41501
441 41501
530 41501
531 41501
532 41501
533 41501
534 41501
537 41501
539 41501
540 41501
541 41501
544 41501
548 41501
550 41501
552 41501
555 41501
557 41501
559 41501
560 41501
561 41501

10 CFR

72 41873
1016 41503

Proposed Rules:
590 41570

12 CFR

217 42882
249 42882
252 42882
1003 43088

Proposed Rules:
12 42619
151 42619
344 42619

14 CFR

39 ..... 41508, 41874, 41878, 42021, 42024, 42029, 42441, 42443, 42579, 42581, 42586, 42589, 42929, 43158, 43160, 43163, 43166, 43168, 43171, 43457
71 42445
91 42592
97 ..... 42592, 42595, 42932, 42934

Proposed Rules:
21 42049
39 ..... 41577, 42261, 42487, 42489, 42752, 42953, 42955, 42957, 43195

16 CFR

1028 43459
1112 43470
1229 43470

Proposed Rules:
1420 42960

18 CFR

1301 41511

19 CFR

Proposed Rules:
Ch. I 42751

21 CFR

112 42031
510 43482
520 43482
522 43482
524 43482
558 43482

Proposed Rules:
Ch. I 42492, 42494, 42497, 42499, 42501, 42503, 42506

112.....42963
573.....43197
1308.....42624, 42754

22 CFR

41.....41883

23 CFR

Proposed Rules:
658.....43198

25 CFR

Proposed Rules:
30.....43199

26 CFR

1 .....41885, 42233, 42938
Proposed Rules:
1.....43314

28 CFR

16.....43174

29 CFR

4002.....42733
4022.....43299
4044.....43299

30 CFR

Proposed Rules:
56.....42757, 42765
57.....42757, 42765

31 CFR

210.....42597

33 CFR

100 .....41886, 42938, 43485
117 .....41519, 41520, 41887, 41889, 41891, 42032, 42447, 42735, 42940, 43486
165 .....41521, 41893, 42033, 42035, 42941, 42943, 42945, 43301, 43487
Proposed Rules:
100.....42050
117.....41901
Ch. II.....43314

36 CFR

Proposed Rules:
312.....43314
327.....43314
328.....43314
330.....43314
331.....43314

37 CFR

201.....42735
202.....42735

38 CFR

62.....41523
Proposed Rules:
9.....42052
74.....41579

40 CFR

52 .....41526, 41527, 41895, 42037, 42040, 42233, 42447, 42451, 42454, 42457, 42738, 42746, 42945, 43176, 43180, 43303, 43487, 43489
55.....43491
62.....43303, 43307
70.....43303
81.....41527
180.....42235, 42947
271.....43185
272.....43185
312.....43309, 43310
423.....43494
Proposed Rules:
51.....42508
52 .....42054, 42055, 42627, 42765, 42767, 42772, 43202, 43205, 43208, 43209, 43315, 43506
62.....43315, 43316
70.....43315
81.....41903
180.....42531
271.....43214, 43316
272.....43214

42 CFR

403.....42748

44 CFR

64.....42240, 42241

47 CFR

1.....41529, 41530
2.....41549
15.....41549
22.....41530
24.....41530
27.....41530
30.....41530
54.....42743
73.....42041, 42749
74.....41530, 41549
80.....41530
87.....41549
90.....41530, 41549
95.....41530
97.....43312
101.....41530
Proposed Rules:
1.....41580
22.....41580
24.....41580
27 .....41580, 42263, 43321
30.....41580
74.....41580, 41583
80.....41580
90.....41580
95.....41580
101.....41580

48 CFR

Proposed Rules:
1816.....43511
1832.....43511
1852.....43511

49 CFR

Proposed Rules:
Ch. V.....43321

50 CFR

17.....42043, 42245
300.....41562
622.....41563, 42044
635.....43500
648 .....41564, 42610, 43192
660.....43192
679 .....41567, 41568, 41899, 42046, 42047, 43503
Proposed Rules:
648.....42266
660.....43323

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. This list is also available online at *http://www.archives.gov/federal-register/laws*.

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S.J. Res. 49/P.L. 115–58
Condemning the violence and domestic terrorist attack that took place during events between August 11 and August 12, 2017, in Charlottesville, Virginia, recognizing the first responders who lost their lives while monitoring the events, offering deepest condolences to the families and friends of those individuals who were killed and deepest sympathies and support to those individuals who were injured by the violence, expressing support for the Charlottesville community, rejecting White nationalists, White supremacists, the Ku Klux Klan, neo-Nazis, and other hate groups, and urging the President and the President's Cabinet to use all available resources to address the threats posed by those groups. (Sept. 14, 2017; 131 Stat. 1149)

Last List September 14, 2017

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