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Federal Register

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 402, 407, and 457

[Docket No. FCIC-17-0004]

RIN 0563-AC56

Catastrophic Risk Protection Endorsement; Area Risk Protection Insurance Regulations; and the Common Crop Insurance Regulations, Basic Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule with request for comments.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) amends the Catastrophic Risk Protection Endorsement, the Area Risk Protection Insurance Basic Provisions, and the Common Crop Insurance Policy Basic Provisions to revise and clarify policy provisions and reduce burden on producers choosing to insure their crops. The changes to the policy made in this rule are applicable for the 2018 and succeeding crop years for all crops with a 2018 contract change date on or after the effective date of the rule, and for the 2019 and succeeding crop years for all crops with a 2018 contract change date prior to the effective date of the rule.

DATES: This final rule is effective November 24, 2017. However, FCIC will accept written comments on this final rule until close of business January 23, 2018. FCIC may consider the comments received and may conduct additional rulemaking based on the comments.

ADDRESSES: FCIC prefers interested persons submit their comments electronically through the Federal eRulemaking Portal. Interested persons may submit comments, identified by Docket ID No. FCIC-17-0004, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail:* Director, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, P.O. Box 419205, Kansas City, MO 64133-6205.

FCIC will post all comments received, including those received by mail, without change to <http://www.regulations.gov>, including any personal information provided. Once these comments are posted to this Web site, the public can access all comments at its convenience from this Web site. All comments must include the agency name and docket number or Regulatory Information Number (RIN) for this rule. For detailed instructions on submitting comments and additional information, see <http://www.regulations.gov>. If interested persons are submitting comments electronically through the Federal eRulemaking Portal and want to attach a document, FCIC requests that the document attachment be in a text-based format. If interested persons want to attach a document that is a scanned Adobe PDF file, it must be scanned as text and not as an image, thus allowing FCIC to search and copy certain portions of the submissions. For questions regarding attaching a document that is a scanned Adobe PDF file, please contact the Risk Management Agency (RMA) Web Content Team at (816) 823-4694 or by email at rmaweb.content@rma.usda.gov.

Privacy Act: Anyone is able to search the electronic form of all comments received for any dockets by the name of the person submitting the comment (or signing the comment, if submitted on behalf of an entity, such as an association, business, labor union, etc.). Interested persons may review the complete User Notice and Privacy Notice for *Regulations.gov* at <http://www.regulations.gov/#!privacyNotice>.

FOR FURTHER INFORMATION CONTACT: Tim Hoffmann, Product Management, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, Beacon Facility, Stop 0812, Room 421, PO Box 419205, Kansas City, MO 64141-6205, telephone (816) 926-7730.

SUPPLEMENTARY INFORMATION:

Background

1. FCIC is revising section 6(f) to the CAT Endorsement (7 CFR part 402) to remove the date of June 1 from the conservation compliance provisions and instead refer to the premium billing date. This will provide more flexibility to policyholders and allow the conservation compliance certification process for crop insurance to be administered more consistently with the way it is administered for other USDA programs. Under the new provisions, policyholders must still have a valid AD-1026 on file with the Farm Service Agency (FSA) for the reinsurance year to be eligible for premium subsidy; however, the AD-1026 does not have to be completed by June 1 of the preceding reinsurance year. While June 1 was believed to be an appropriate timeframe in which the AD-1026 needed to be signed, after two years since initial implementation a more streamlined approach is warranted to provide administrative efficiencies for both producers and FCIC/FSA without impacting the appropriate determinations of compliance. Insurance providers can confirm whether a policyholder has a valid AD-1026 on file, via data received from FCIC, as of the premium billing date, and any policyholder without an AD-1026 on file will be billed the full unsubsidized premium. To effectuate these changes, FCIC has revised section 6(f)(2) to clarify the date by which producers must be determined to be eligible for premium subsidy. FCIC has also added section 6(f)(2)(i)(A) to remove the June 1 deadline from the FCIC language providing exceptions from the requirement to file an AD-1026 for producers who are new to farming, new to crop insurance, a new entity, or have not previously been required to file form AD-1026 and to specify that policyholders must certify to the exception by the premium billing date. The FCIC exceptions allow new producers certifying they meet the exception criteria by the premium billing date to receive premium subsidy for the initial reinsurance year while providing the flexibility to file form AD-1026 with FSA by the premium billing date of the subsequent reinsurance year to maintain premium subsidy eligibility. Subparagraph (B) was added to section 6(f)(2)(i) to reference FSA relief provisions

contained in 7 CFR part 12 that provide additional time to file an AD-1026 if producers are unable to file due to circumstances beyond their control and provides additional time to provide required information if the AD-1026 is timely filed but the producer is unable to timely provide the information due to circumstances beyond their control. FCIC has determined these changes will have no impact on the proper determinations of conservation compliance regarding Highly Erodible Land/Wetland Compliance violations under 7 CFR part 12. These changes are intended to increase the opportunity for producers to comply with the form AD-1026 conservation compliance certification requirement and decrease the likelihood of producers who have not committed a violation from becoming ineligible for premium subsidy.

2. The specific changes to the Area Risk Protection Insurance Basic Provisions (7 CFR part 407) are as follows:

(a) Section 1—FCIC is revising the definition of “good farming practices” for clarification by removing the reference to an organic plan, because an organic plan and good farming practice determinations serve two different purposes. An organic plan is a written plan that describes organic farming practices, but does not necessarily provide a comprehensive list of good farming practices. FCIC is also reorganizing the definition to improve readability.

FCIC is revising the definition of “limited resource farmer” by updating the Web site for the USDA definition because the Web site address had become out of date.

FCIC is revising the name of the definition of “RMA’s Web site” to “RMA’s Web site” because the uncapitalized, one-word term is more commonly used. FCIC is also correcting references to this term throughout the policy.

(b) Section 2—FCIC is revising section 2(j) to add a new paragraph (2) that clarifies that with the policyholder’s consent the premium and administrative fees can be offset from any indemnity due the policyholder even if the offset occurs before the fees are billed. This change clarifies the issues raised in Final Agency Determination-147 and allows insurance providers the latitude to contact the policyholder and inquire as to whether the policyholder would agree to have the “unbilled” administrative fees and premium offset from the remaining amount of the loss. FCIC is redesignating paragraph 2(j)(2) as 2(j)(3).

FCIC is revising section 2(k)(2)(i)(D) to update the years used in the example so that it reflects more recent crop years.

FCIC is revising section 2(k)(3)(ii) to reference subpart U regarding written payment agreements and deleting the parenthetical from this provision. FCIC is removing the prohibition on a policyholder entering into a written payment agreement if they previously failed to make a scheduled payment under any payment agreement to give insurance providers the flexibility to enter into these agreements. Subpart U provides information regarding written payment agreements. Subpart U provides that only one written payment agreement is permitted per termination date. Subpart U also provides other requirements for written payment agreements such as a written payment agreement cannot exceed two years in duration and a written payment agreement cannot be modified after it has been executed. Subpart U does not restrict a policyholder from entering into a written payment agreement if they previously failed to make a payment under an agreement. By referring to subpart U, FCIC will not need to make updates to the Basic Provisions when changes are made to subpart U.

FCIC is revising section 2(p)(2) to update the years used in the example so that it reflects more recent crop years.

(c) Section 7—FCIC is revising section 7(i) to remove the date of June 1 from the conservation compliance provisions and instead refer to the premium billing date. This will provide more flexibility to policyholders and allow the conservation compliance certification process for crop insurance to be administered more consistently with the way it is administered for other USDA programs. Under the new provisions, policyholders must still have a valid AD-1026 on file with FSA for the reinsurance year to be eligible for premium subsidy; however, the AD-1026 does not have to be completed by June 1 of the preceding reinsurance year. While June 1 was believed to be an appropriate timeframe in which the AD-1026 needed to be signed, after two years since initial implementation a more streamlined approach is warranted to provide administrative efficiencies for both producers and FCIC/FSA without impacting the appropriate determinations of compliance. Insurance providers can confirm whether a policyholder has a valid AD-1026 on file, via data received from FCIC, as of the premium billing date, and a policyholder without an AD-1026 on file will be billed the full unsubsidized premium. To effectuate

these changes FCIC has revised section 7(i)(2) to clarify the date by which producers must be determined to be eligible for premium subsidy. FCIC has also added section 7(i)(2)(i)(A) to remove the June 1 deadline from the FCIC language providing exceptions from the requirement to file an AD-1026 for producers who are new to farming, new to crop insurance, a new entity, or have not previously been required to file form AD-1026 and to specify that policyholders must certify to the exception by the premium billing date. The FCIC exceptions allow new producers certifying they meet the exception criteria by the premium billing date to receive premium subsidy for the initial reinsurance year while providing the flexibility to file form AD-1026 with FSA by the premium billing date of the subsequent reinsurance year to maintain premium subsidy eligibility. Subparagraph (B) was added to section 7(i)(2)(i) to reference FSA relief provisions contained in 7 CFR part 12 that provide additional time to file an AD-1026 if producers are unable to file due to circumstances beyond their control and provides additional time to provide required information if the AD-1026 is timely filed but the producer is unable to timely provide the information due to circumstances beyond their control. FCIC has determined these changes will have no impact on the proper determinations of conservation compliance regarding Highly Erodible Land/Wetland Compliance violations. These changes are intended to increase the opportunity for producers to comply with the form AD-1026 conservation compliance certification requirement and decrease the likelihood of producers who have not committed a violation from becoming ineligible for premium subsidy.

3. The changes to the Common Crop Insurance Regulations, Basic Provisions (7 CFR part 457) are as follows:

(a) Preamble—FCIC is revising the order of priority in the preamble to include the actuarial documents. By definition, the actuarial documents are a part of the policy and should be included in the order of priority. The actuarial documents will follow the Special Provisions in the order of priority.

(b) Section 1—FCIC is revising the definition of “Cooperative Extension System” by replacing the reference to the “Cooperative State Research, Education, and Extension Service” to the “National Institute of Food and Agriculture.” This change is being made to reference the correct entity.

FCIC is revising the name of the definition of "FSA farm serial number" to "FSA farm number" because the term "FSA farm serial number" is no longer used. FCIC is also correcting references to this term throughout the policy.

FCIC is revising the definition of "good farming practices" for clarification by removing the reference to an organic plan, because an organic plan and good farming practice determinations serve two different purposes. An organic plan is a written plan that describes organic farming practices, but does not necessarily provide a comprehensive list of good farming practices. FCIC is also reorganizing the definition to improve readability.

FCIC is revising the definition of "price election" by replacing the phrase "Special Provisions, or in an addendum thereto" with the phrase "actuarial documents" because price elections are contained in the actuarial documents.

FCIC is revising the definition of "replanted crop" to address how to calculate production to count in the event of a claim if the insurance provider determines it is not practical to replant and the policyholder plants the acreage to the same insured crop.

The rules surrounding "practical to replant" are designed for a failed crop to be replanted with the replant expenses covered by the insurance policy. In most cases, if there is a reasonable chance harvesting some production from the replanted crop and thereby provides assistance for impacted policyholders to grow the crop they intended. This assists policyholders while potentially reducing costs for the taxpayer, potentially lowers premium rates, and provides the potential for growers to have higher insurance guarantees in subsequent years than would otherwise be the case. If there is not a reasonable chance of at least some production, then the policyholder should not replant the crop.

If, later, the policyholder decides to replant the crop for the same intended use, then the policyholder is indicating that there is a reasonable chance of some production. Any production from the replanted crop is applied against the losses from the initial crop.

In relation to "replanted crops," concerns have been raised that if an insurance provider determines that it is not practical to replant a crop and the policyholder plants the acreage to the same insured crop, it is possible the replanted crop could have less production to count than the appraised production on the initially planted crop. Allowing the policyholder to receive the

larger claim, creates a moral hazard situation, where the policyholders could receive a larger indemnity from replanting a crop when it may not be practical to do so. It is not the intent of FCIC to pay producers a full indemnity for a crop and then they successfully plant and harvest the same crop for the same intended use after the late planting period. Therefore, FCIC has determined the indemnity should be based on the greater of: (1) The appraised production on the initially planted crop; (2) the subsequent appraisal of the replanted crop if the replanted crop is not harvested; or (3) the harvested production from the replanted crop.

FCIC is also revising the definition of "replanted crop" to accommodate growing practices of producers. The rationale behind "replanted crop" rules is to ensure that producers are not paid a full indemnity and subsequently plant the same crop for the same purpose to harvest. If a producer plants the same crop, then a full indemnity should not be paid on the initially planted crop and FCIC should ensure that taxpayer losses are lessened if the second attempt to plant the crop results in a better yield than the initially planted crop.

Specifically, FCIC is revising the definition of "replanted crop" to state unless otherwise specified in the Special Provisions, the crop will be considered an insured replanted crop and no replanting payment will be paid if the insurance provider has determined: (1) It is not practical to replant the insured crop, and (2) the policyholder chooses to plant the acreage to the same insured crop within or prior to the late planting period, or after the final planting date if no late planting period is applicable.

FCIC is making this change to clarify that anytime the acreage is replanted to the same crop within or prior to the late planting period, it will be considered a replanted crop. However, FCIC also recognizes that in some situations a producer replants the same crop much later and for a different purpose. For example, a crop is damaged and it is determined not practical to replant. However, after the late planting period, conditions allow a policyholder to plant a crop with no intention of harvesting for grain but rather the chance of harvesting for livestock feed. This revision will allow a claim to be paid for the initially seeded crop and not be impacted by the late planted crop which was never intended to be harvested as grain.

Additionally, the revisions provides FCIC flexibility to clarify by Special Provisions certain situations where a crop is replanted to the same crop and

when it will or will not be considered a replanted crop. This flexibility addressed those crops that have no late planting period or late planting periods that are a few days.

FCIC is revising the name of the definition of "RMA's Web site" to "RMA's Web site" because the uncapitalized, one-word term is more commonly used. FCIC is also correcting references to this term throughout the policy.

(c) Section 2—FCIC is revising section 2(e) to add a new paragraph (2) that clarifies that with the policyholder's consent the premium and administrative fees can be offset from any prevented planting or indemnity due the policyholder even if the offset occurs before the fees are billed. This change clarifies the issues raised in Final Agency Determination-147 and allows insurance providers the latitude to contact the policyholder and inquire as to whether the policyholder would agree to have the "unbilled" administrative fees and premium offset from the remaining amount of the loss.

FCIC is revising section 2(f)(2)(i)(D) to update the years used in the example to reflect more recent crop years.

FCIC is revising section 2(f)(3)(ii) to reference subpart U regarding written payment agreements and deleting the parenthetical from this provision. FCIC is removing the prohibition that does not allow a policyholder to enter into a written payment agreement if they previously failed to make a payment under an agreement to give insurance providers the flexibility to enter into these agreements. Subpart U provides information regarding written payment agreements. Subpart U provides that only one written payment agreement is permitted per termination date. It also provides other requirements for written payment agreements such as a written payment agreement cannot exceed two years in duration and a written payment agreement cannot be modified after it has been executed. Subpart U does not restrict a policyholder from entering into a written payment agreement if they previously failed to make a payment under an agreement. By referring to subpart U, FCIC will not need to make updates to the Basic Provisions when changes are made to subpart U.

FCIC is revising section 2(f)(5) to update the years used in the example to reflect more recent crop years.

FCIC is removing section 2(j) because this provision is unnecessary since there are no longer maximum allowable amounts of administrative fees. Previously, when there were caps, there needed to be a way to inform insurance

providers when the cap had been met in those situations where the policyholder insured with more than one insurance provider. FCIC is redesignating paragraph 2(k) as 2(j).

(d) Section 3—FCIC is revising section 3(f)(3) to allow these provisions to be changed in the Special Provisions. This change provides flexibility to amend the production reporting dates and the manner in which production reports are submitted if it is determined appropriate to better meet the needs of the program and policyholders.

FCIC is revising section 3(h)(1) by changing the reference of “valid basis” to “valid agronomic basis” to be consistent with section 3(h)(2). This will allow FCIC to require the same basis for supporting both the excessive yields and inconsistent yields and will clarify that factors related to the soil and crop productivity will be considered when determining whether yields should be considered acceptable.

(e) Section 6—FCIC is revising section 6(a)(3) to add a new paragraph (iii) that provides if the policyholder planted the insured crop on or within five days prior to the final planting date and the final planting date is five or fewer days prior to the acreage reporting date, the policyholder must submit an acreage report no later than five days after the acreage reporting date. This allows policyholders adequate time to submit their acreage reports if the insured crop’s acreage reporting date is the same as or closely follows the final planting date.

(f) Section 7—FCIC is revising section 7(h) to remove the date of June 1 from the conservation compliance provisions and instead refer to the premium billing date. This will provide more flexibility to policyholders and allows the conservation compliance certification process for crop insurance to be administered more consistently with the way it is administered for other USDA programs. Under the new provisions, policyholders must still have a valid AD–1026 on file with FSA for the reinsurance year to be eligible for premium subsidy; however, the AD–1026 does not have to be completed by June 1 of the preceding reinsurance year. While June 1 was believed to be an appropriate timeframe in which the AD–1026 needed to be signed, after two years since initial implementation a more streamlined approach is warranted to provide administrative efficiencies for both producers and FCIC/FSA without impacting the appropriate determinations of compliance.

Insurance providers can confirm whether a policyholder has a valid AD–1026 on file, via data received from

FCIC, as of the premium billing date, and any policyholder without an AD–1026 on file will be billed the full unsubsidized premium. To effectuate these changes, FCIC has revised section 7(h)(2) to clarify the date by which producers must be determined to be eligible for premium subsidy. FCIC has also added section 7(h)(2)(i)(A) to remove the June 1 deadline from the FCIC language providing exceptions from the requirement to file an AD–1026 for producers who are new to farming, new to crop insurance, a new entity, or have not previously been required to file form AD–1026 and to specify that policyholders must certify to the exception by the premium billing date. The FCIC exceptions allow new producers certifying they meet the exception criteria by the premium billing date to receive premium subsidy for the initial reinsurance year while providing the flexibility to file form AD–1026 with FSA by the premium billing date of the subsequent reinsurance year to maintain premium subsidy eligibility. Subparagraph (B) was added to section 7(h)(2)(i) to reference FSA relief provisions contained in 7 CFR part 12 that provide additional time to file an AD–1026 if producers are unable to file due to circumstances beyond their control and provides additional time to provide required information if the AD–1026 is timely filed but the producer is unable to timely provide the information due to circumstances beyond their control. FCIC has determined these changes will have no impact on the proper determinations of conservation compliance regarding Highly Erodible Land/Wetland Compliance violations. These changes are intended to increase the opportunity for producers to comply with the form AD–1026 conservation compliance certification requirement and decrease the likelihood of producers who have not committed a violation from becoming ineligible for premium subsidy.

(g) Section 9—FCIC is revising section 9(a)(2)(viii)(A) by changing the reference to the “Group Risk Protection Plan of Insurance” to “Area Risk Protection Insurance” because the Group Risk Protection Plan of Insurance was replaced with Area Risk Protection Insurance for the 2014 and succeeding crop years.

(h) Section 17—FCIC is revising section 17(f)(9) by changing the reference to “manpower” to “labor” to update the term to be gender neutral.

(i) Section 18—FCIC is revising sections 18(c)(1) and (2) by replacing the phrase “Special Provisions, or in an addendum thereto” with the phrase

“actuarial documents” as price elections are contained in the actuarial documents.

FCIC is revising section 18(e)(2)(i)(B) to remove the requirement that a written agreement to insure acreage that is greater than five percent of the planted acreage in the unit where the acreage has not been planted and harvested or insured in any of the three previous crop years (commonly referred to as new breaking acreage) must be requested by the acreage reporting date. The Special Provisions have previously been utilized to require a written agreement on such acreage be requested by the sales closing date. By removing this language from this section, the deadline to request this type of written agreement will revert to section 18(a), making the deadline the sales closing date and allowing the Special Provisions statement to be removed.

FCIC is removing section 18(e)(3) because any additional land or additional crop must meet the request deadlines of section 18(a) or 18(e) regardless of whether the additional land or additional crop will be added to an existing written agreement or a request for a written agreement. Therefore, this language is not needed.

FCIC is revising section 18(f)(1)(ii) to remove language regarding the information needed to determine the approved yield. By specifying that the completed actual production history (APH) must be based on verifiable records of actual yields for the crop and county, the APH already contains the information needed to determine the approved yield. The revision is made because the language is redundant.

FCIC is also revising section 18(f)(1)(ii) to remove the requirement of the policyholder’s signature on the completed APH submitted with the written agreement request. The policyholder certifies to the insurance provider each year the yields on the APH for the year the crop is produced and any required signatures are obtained by the insurance provider from the policyholder at that time. Requiring a policyholder’s signature on the APH for a written agreement request is redundant.

FCIC is revising section 18(f)(1)(iii) to add “the crop” as an option for evidence of adaptability. Making this change clarifies that for situations when the crop is not insurable, evidence of adaptability can only be required for the crop itself, and is not required to be broken down by practice, type, or variety. The current practice, type, or variety language is intended for when the crop may be insurable, but the

requested practice, type, or variety is not.

FCIC is removing section 18(f)(1)(vi) to clarify that “all other information” is not a requirement to obtain a written agreement. The policyholder may still provide any other information they wish to support their request for written agreement, but the policyholder is only required to submit the information identified in sections 18(f).

FCIC is revising section 18(f)(2)(i) to clarify this section is not only applicable to crops previously planted, it is also applicable to perennial crops that have previously produced a crop. Due to the nature of how long some perennial crops take to produce after planting the crop, specifying “perennial crops that have previously produced a crop” instead of “planted” clarifies the language for how perennial crops are affected.

FCIC is also revising section 18(f)(2)(i) to allow an entity to use the production history from a substantial beneficial interest in the entity that has a history of growing the crop to qualify for a written agreement. This revision will allow a newly formed entity a pathway to qualify for a written agreement, whereas previously the newly formed entity was required to grow the crop, or a similar crop, for a minimum of three years before the new entity could qualify, even if substantial beneficial interests of the entity had previously grown the crop.

FCIC is revising section 18(f)(2)(i)(A) to remove the requirement of the policyholder's signature on the completed APH submitted with the written agreement request. If the policyholder has insured the crop in the county or area, then the yields used on the APH have already been certified by the policyholder each year the production report was provided, and any required signatures are obtained by the insurance provider from the policyholder at that time. If the crop was not insured, then verifiable records must be submitted with the written agreement request. In both cases, requiring a policyholder's signature on the APH for a written agreement request is redundant. Therefore, removing the APH signature requirement increases efficiency for written agreement requests and is less burdensome to the policyholder.

FCIC is also revising section 18(f)(2)(i)(A) of the Basic Provisions to state the completed APH is based on verifiable production records of actual yields for the crop to be consistent with the APH requirement for other written agreement request types.

FCIC is revising section 18(f)(2)(i)(B) to clarify this section is also applicable to perennial crops that have previously produced a crop. As stated above, due to the nature of how long some perennial crops take to produce after planting the crop, specifying “perennial crops that have previously produced a crop” instead of “planted” clarifies the language for how perennial crops are affected.

FCIC is revising section 18(f)(2)(i)(B)(2) to remove the requirement that the policyholder must insure the crop for the three previous crop years before they can substitute a year of insurance experience for a year of verifiable records. This change will allow the policyholder to use their insured crop's information for any year that the policyholder has insured the crop instead of providing verifiable records. For example, if the policyholder has produced the requested crop for three years and insured the requested crop for one year, verifiable records only have to be submitted for the two years the requested crop was not insured. For the year that the crop was insured the policyholder does not have to provide verifiable records.

FCIC is also revising section 18(f)(2)(i)(B)(2) to allow an entity to use the production history from a substantial beneficial interest in the entity that has a history of growing the crop to qualify for a written agreement. As stated above, this revision will allow a newly formed entity a pathway to qualify for a written agreement, whereas previously the newly formed entity was required to grow the crop, or a similar crop, for a minimum of three years before the new entity could qualify, even if substantial beneficial interests of the entity had previously grown the crop.

FCIC is adding a new section 18(f)(2)(i)(B)(3) to state that FCIC will not consider any crop year in which the crop was planted outside of the most recent ten crop years as a year of previously planting the crop, or produced a crop if the crop is a perennial crop, unless verifiable production records are provided, or the crop was insured for that crop year. This change reduces the burden on policyholders by not requiring them to bring in the requested crop verifiable records from over ten years ago, which would allow the use of similar crop provisions in section 18(f)(2)(ii) to fulfill the requirement if the policyholder has not grown the requested crop for three crop years in the last ten years, even if the policyholder produced the requested crop more than ten years ago.

FCIC is revising section 18(f)(2)(ii) to clarify this section is not only applicable to crops previously planted, it is also applicable to perennial crops that have previously produced a crop. As stated above, due to the nature of how long some perennial crops take to produce after the crop is planted, specifying “perennial crops that have previously produced a crop” instead of “planted” clarifies the language for how perennial crops are affected.

FCIC is also revising section 18(f)(2)(ii) to allow an entity to use the production history from a substantial beneficial interest in the entity that has a history of growing the crop to qualify for a written agreement. As stated above, this revision will allow a newly formed entity a pathway to qualify for a written agreement, whereas previously the newly formed entity was required to grow the crop, or a similar crop, for a minimum of three years before the new entity could qualify, even if substantial beneficial interests of the entity had previously grown the crop.

FCIC is revising section 18(f)(2)(ii)(A) to remove the requirement of the policyholder's signature on the completed APH submitted with the written agreement request. As stated above, if the policyholder has insured the crop in the county or area, then the yields used on the APH have already been certified to the insurance provider each year the production report was provided, and any required signatures are obtained by the insurance provider from the policyholder at that time. If the crop was not insured, then verifiable records must be submitted with the written agreement request. In both cases, requiring a policyholder's signature on the APH for a written agreement request is redundant.

FCIC is removing sections 18(f)(2)(ii)(A)(1) and (2) from section 18(f)(2)(ii)(A). This change makes the similar crop language consistent with the requested crop language in section 18(f)(2)(i). A policyholder will now be able to provide a completed APH for a similar crop that was grown in the area even if the similar crop was also grown in the county, the same as is allowed for the requested crop.

FCIC is revising section 18(f)(2)(ii)(B) to clarify this section is not only applicable to crops previously planted, it is also applicable to perennial crops that have previously produced a crop. As stated above, due to the nature of how long some perennial crops take to produce after planting the crop, specifying “produced for perennial crops” instead of “planted” clarifies the language for how perennial crops are affected.

FCIC is revising section 18(f)(2)(ii)(B)(2) to be consistent with the changes made in section 18(f)(2)(i)(B)(2) above, which is removing the requirement that the policyholder must insure the crop for the three previous crop years before they can substitute a year of insurance experience for a year of verifiable records. Revising this section to be consistent with section 18(f)(2)(i)(B)(2) makes this change apply to the similar crop language the same as the requested crop language. This change will allow the policyholder to use their insured similar crop's information for any year that the policyholder has insured the similar crop instead of providing verifiable records.

FCIC is also revising section 18(f)(2)(ii)(B)(2) to allow an entity to use the production history from a substantial beneficial interest in the entity that has a history of growing the similar crop to qualify for a written agreement. As stated above, this revision will allow a newly formed entity a pathway to qualify for a written agreement, whereas previously the newly formed entity was required to grow the crop, or a similar crop, for a minimum of three years before the new entity could qualify, even if substantial beneficial interests of the entity had previously grown the crop.

FCIC is adding a new section 18(f)(2)(ii)(B)(3) to be consistent with the changes made in section 18(f)(2)(i)(B)(3), which is to state that FCIC will not consider any crop year in which the crop was planted outside of the most recent ten crop years as a year of previously planting the crop, or having produced a crop if the crop is a perennial crop, unless verifiable production records are provided, or the crop was insured for that crop year. Revising this section to be consistent with section 18(f)(2)(i)(B)(3) makes this change apply to the similar crop language the same as the requested crop language.

FCIC is revising section 18(f)(2)(ii)(C) to allow an entity to use the production history from a substantial beneficial interest in the entity that has a history of growing the crop to qualify for a written agreement. As stated above, this revision will allow a newly formed entity a pathway to qualify for a written agreement, whereas previously the newly formed entity was required to grow the crop, or a similar crop, for a minimum of three years before the new entity could qualify, even if substantial beneficial interests of the entity had previously grown the crop.

FCIC is also revising section 18(f)(2)(ii)(C) to clarify this section is

not only applicable to crops previously planted, it is also applicable to perennial crops that have previously produced a crop. As stated above, due to the nature of how long some perennial crops take to produce after planting the crop, specifying "perennial crops that have previously produced a crop" instead of "planted" clarifies the language for how perennial crops are affected.

FCIC is removing section 18(f)(2)(vi) to be consistent with the changes made in section 18(f)(1)(vi) above. This will clarify that "all other information" is not a requirement to obtain a written agreement. The policyholder may still provide any other information they wish to support their request for written agreement but the policyholder is only required to submit the information identified in sections 18(f).

FCIC is removing section 18(g)(3) because any additional land or additional crop must meet the request deadlines of section 18(a) or 18(e) whether or not the additional land or additional crop will be added to an existing written agreement or a request for a written agreement. Therefore, this language is not needed.

FCIC is revising section 18(h)(2) to clarify the APH history used to determine 50 percent of the transitional yield for the crop, type, and practice can be from either the county or a similar county. Currently this provision only looks at similar counties. This will allow a broader review of the policyholder's APH history to determine whether at least 50 percent of the transitional yield for the crop, type, and practice has been produced.

FCIC is also revising section 18(h)(2) to clarify that this provision only applies when the crop has been previously grown. The provision appeared to deny a written agreement if the policyholder had not previously grown the requested crop, type or practice, because if the requested crop, type or practice had not previously been grown it could not have made 50 percent of the transitional yield. These changes now clearly state that a policyholder will not be denied a written agreement under this provision if they have not grown the crop, type, and practice.

FCIC is revising section 18(h)(4) to clarify this provision is also applicable if a similar crop was not previously grown in the area. As previously written, it appeared like a written agreement would automatically be denied when the actual crop was not grown. This conflicted with the similar crop provisions in section 18(f)(2)(ii) where a similar crop can be used to

qualify a written agreement request for counties without actuarial documents for the crop when the requested crop had not been grown, or had not been grown long enough to complete the required three years of records. This change now clarifies that a denial will take place when the crop, or a similar crop, has not been grown, which removes any conflict with the similar crop provisions.

FCIC is also revising section 18(h)(4) to allow the crop or similar crop to be grown in the area, as growing the crop or similar crop in the area can qualify a policyholder in the county even if they have not grown the crop in the requested county.

FCIC is removing from section 18(h)(4) the phrase "based on sales receipts, contemporaneous feeding records or a contract for the crop." By listing these options out it limits what can be shown as evidence of a market. If the policyholder is new to the area or is growing a new crop and qualifying based on a similar crop, they would not have sales receipts, contemporaneous feeding records, and unlikely to have a contract for the requested crop as most crops do not require a contract. Section 18(f)(2)(iv) already requires the name, location of, and approximate distance to the place the crop will be sold, which identifies the market for the crop.

FCIC is revising section 18(h)(5) to allow a written agreement request to be denied for a particular practice or type if that practice or type is not adapted to the county. The current language only specified crop, thus if the crop was adapted to the county it could be assumed that all practices or types are automatically considered adapted. This change allows the ability to deny a written agreement request if a particular practice or type of a crop is not adapted to the county, even if other practices or types of the crop are adapted to the county.

(j) Section 21—FCIC is revising section 21(b)(2) to update the years used in the example to reflect more recent crop years.

(k) Section 34—FCIC is revising sections 34(a)(4)(viii), (viii)(A), and (viii)(B) to allow a policyholder to select an enterprise unit for either irrigated or non-irrigated practice and choose the most appropriate unit structure on the other practice, be it a separate enterprise unit or optional or basic units. Previously, FCIC only allowed an enterprise unit for all acreage of the crop in the county. In the Agricultural Act of 2014, Congress mandated that FCIC allow separate enterprise units by irrigated and non-irrigated practices. Currently, FCIC requires that all acreage

of the crop in the county be insured as an enterprise unit, one for all the irrigated acreage in the county and one for all the non-irrigated acreage in the county. Policyholders have made it clear to FCIC that, requiring all irrigated and non-irrigated acreage to separately qualify as enterprise units and to be eligible for separate enterprise units by practice both must be insured as enterprise units is not affording policyholders the flexibility to tailor their insurance coverage to meet their risk management needs. Policyholders have identified situations where both the irrigated and non-irrigated acreage do not qualify as enterprise units and they are left with a single enterprise unit for all the acreage and situations where having separate enterprise units for irrigated and non-irrigated acreage simply does not meet their risk management needs. Policyholders argue that to meet their risk management needs they need to be allowed to qualify for an enterprise unit for the practice that they determine best meets their risk management needs and another type unit for the other practice. FCIC agrees that irrigated and non-irrigated practices have inherently different risks, and some perils such as drought that can impact a non-irrigated crop may be distinctly different from those that may impact an irrigated crop such that an enterprise unit structure may only be an appropriate risk management alternative for one of the practices, but not both. In the best interest of policyholders and to allow the flexibility to match as closely as possible the inherently different risks for irrigated and non-irrigated practices, FCIC is revising the provisions to allow a policyholder to elect the most appropriate unit structure for each practice.

FCIC is revising section 34(a)(4)(viii)(C) to make this section applicable only if the policyholder elected separate enterprise units for irrigated and non-irrigated practices and it is discovered the policyholder does not qualify for an enterprise unit for the irrigated or non-irrigated practices.

FCIC is adding a new section 34(a)(4)(viii)(D) to state what happens when a policyholder elected an enterprise unit on one practice (irrigated or non-irrigated) and a different unit structure on the other practice and it is discovered the policyholder does not qualify for an enterprise unit for the irrigated or non-irrigated practice. If it is discovered the policyholder does not qualify for an enterprise unit on or before the acreage reporting date, the policyholder's unit division will be based on basic or optional units, whichever they report on their acreage

report and qualify for. If it is discovered the policyholder does not qualify for an enterprise unit at any time after the acreage reporting date, the insurance provider will assign the basic unit structure.

Effective Date

The FCIC is issuing this final rule without opportunity for prior notice and comment. The Administrative Procedure Act (APA) exempts rules "relating to agency management or personnel or to public property, loans, grants, benefits, or contracts" from the statutory requirement for prior notice and opportunity for public comment (5 U.S.C. 553(a)(2)). A Federal crop insurance policy is a contract and is thus exempt from APA notice-and-comment procedures. Previously, changes made to the Federal crop insurance policies codified in the Code of Federal Regulations were required to be implemented through the notice-and-comment rulemaking process. Such action was not required by the APA, which exempts contracts. Rather, the requirement originated with a notice USDA published in the **Federal Register** on July 24, 1971 (36 FR 13804), stating that the Department of Agriculture would, to the maximum extent practicable, use the notice-and-comment rulemaking process when making program changes, including those involving contracts. FCIC complied with this notice over the subsequent years. On October 28, 2013, USDA published a notice in the **Federal Register** (78 FR 64194) rescinding the prior notice, thereby making contracts again exempt from the notice-and-comment rulemaking process. This exemption applies to the 30-day notice prior to implementation of a rule. Therefore, the policy changes made by this final rule are effective upon publication in the **Federal Register**.

However, FCIC is providing a 30-day comment period and invites interested persons to participate in this rulemaking by submitting written comments. FCIC may consider the comments received and may conduct additional rulemaking based on the comments.

Executive Orders 12866, 13563, and 13771

Executive Order 12866, "Regulatory Planning and Review," and Executive Order 13563, "Improving Regulation and Regulatory Review," direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health

and safety effects, distributive impacts, and equity). Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Office of Management and Budget (OMB) designated this rule as not significant under Executive Order 12866, "Regulatory Planning and Review," and therefore, OMB has not reviewed this rule. The rule is not subject to Executive Order 13771, "Reducing Regulation and Controlling Regulatory Costs."

Paperwork Reduction Act of 1995

Pursuant to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, subchapter I), the collections of information in this rule have been approved by OMB under control number 0563-0053.

E-Government Act Compliance

FCIC is committed to complying with the E-Government Act of 2002, 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.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 13132

It has been determined under section 1(a) of Executive Order 13132, Federalism, that this rule does not have sufficient implications to warrant consultation with the States. The provisions contained in this rule will not have a substantial direct effect on States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments." Executive Order 13175

requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

The Federal Crop Insurance Corporation has assessed the impact of this rule on Indian tribes and determined that this rule does not, to our knowledge, have tribal implications that require tribal consultation under EO 13175. If a Tribe requests consultation, the Federal Crop Insurance Corporation will work with the Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions and modifications identified herein are not expressly mandated by Congress.

Regulatory Flexibility Act

FCIC certifies that this regulation will not have a significant economic impact on a substantial number of small entities. Program requirements for the Federal crop insurance program are the same for all producers regardless of the size of their farming operation. For instance, all producers are required to submit an application and acreage report to establish their insurance guarantees and compute premium amounts, and all producers are required to submit a notice of loss and production information to determine the indemnity amount for an insured cause of crop loss. Whether a producer has 10 acres or 1000 acres, there is no difference in the kind of information collected. To ensure crop insurance is available to small entities, the Federal Crop Insurance Act (FCIA) authorizes FCIC to waive collection of administrative fees from limited resource farmers. FCIC believes this waiver helps to ensure that small entities are given the same opportunities as large entities to manage their risks through the use of crop insurance. A Regulatory Flexibility Analysis has not been prepared since this regulation does not have a significant impact on a substantial number of small entities, and, therefore, this regulation is exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605).

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See 2 CFR part 415, subpart C.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. With respect to any direct action taken by FCIC or action by FCIC directing the insurance provider to take specific action under the terms of the crop insurance policy, the administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action against FCIC for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant economic impact on the quality of the human environment, health, or safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

List of Subjects in 7 CFR Parts 402, 407, and 457

Crop insurance, Reporting and recordkeeping requirements.

Final Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation amends 7 CFR parts 402, 407, and 457 as follows:

PART 402—CATASTROPHIC RISK PROTECTION ENDORSEMENT

- 1. The authority citation for 7 CFR part 402 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(o).

- 2. Amend § 402.4 by revising section 6(f) to read as follows:

§ 402.4 Catastrophic Risk Protection Endorsement Provisions.

* * * * *

6. Annual Premium and Administrative Fees

* * * * *

(f) You will be responsible for payment of the premium established for the coverage provided under this endorsement if:

(1) USDA determines you have committed a violation of the highly erodible land conservation or wetland conservation provisions of 7 CFR part

12 as amended by the Agricultural Act of 2014; or

(2) You have not filed form AD-1026 with FSA for the reinsurance year by the premium billing date.

(i) Notwithstanding section 6(f)(2), you may be eligible for premium subsidy without having a timely filed form AD-1026:

(A) For the initial reinsurance year if you certify by the premium billing date for your policy that you meet the qualifications as outlined in FCIC approved procedures for producers who are new to farming, new to crop insurance, a new entity, or have not previously been required to file form AD-1026; or

(B) If FSA approves relief for failure to timely file due to circumstances beyond your control or failure to timely provide adequate information to complete form AD-1026 in accordance with the provisions contained in 7 CFR part 12.

(ii) To be eligible for premium subsidy paid on your behalf by FCIC, it is your responsibility to assure you meet all the requirements for:

(A) Compliance with the conservation provisions specified in section 6(f)(1) of this section; and

(B) Filing form AD-1026 to be properly identified as in compliance with the conservation provisions specified in section 6(f)(1) of this section.

* * * * *

PART 407—AREA RISK PROTECTION INSURANCE REGULATIONS

- 3. The authority citation for 7 CFR part 407 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(o).

- 4. Amend § 407.9 as follows:
 - a. Remove the phrase “website” wherever it appears and add the word “Web site” in its place;
 - b. In section 1:
 - i. Revise the definition of “Good farming practices”; and
 - ii. In the definition of “Limited resource farmer”, remove “<http://www.lrftool.sc.egov.usda.gov> or a successor Web site” and add “http://lrftool.sc.egov.usda.gov/LRP_Definition.aspx” in its place;
 - c. In section 2:
 - i. Redesignate paragraph (j)(2) as paragraph (j)(3);
 - ii. Add a new paragraph (j)(2);
 - iii. In paragraph (k)(2)(i)(D), remove the date of “2011” and add the date “2019” in its place and remove the date of “2010” and add the date of “2018” in its place in each instance these dates appear in the paragraph;

- iv. Revise paragraph (k)(3)(ii); and
- v. In paragraph (p)(2), remove the date of “2012” and add the date “2018” in its place and remove the date of “2013” and add the date of “2019” in its place in each instance these dates appear in the paragraph;

■ d. Revise section 7(i).

The revisions and additions reads as follows:

§ 407.9 Area risk protection insurance policy.

* * * * *

1. Definitions

* * * * *

Good farming practices. The production methods utilized to produce the insured crop, type, and practice and allow it to make normal progress toward maturity, which are those generally recognized by agricultural experts or organic agricultural experts, depending on the practice, for the area. We may, or you may request us to, contact FCIC to determine if production methods will be considered “good farming practices.”

* * * * *

2. Life of Policy, Cancellation, and Termination

* * * * *

(j) * * *

(2) If you and we agree, your premium and administrative fees can be offset from any indemnity due you even if it is prior to the billing date of the premium and administrative fees.

* * * * *

(k) * * *

(3) * * *

(ii) Execute a written payment agreement in accordance with 7 CFR part 400, subpart U, and make payments in accordance with the agreement; or

* * * * *

7. Annual Premium and Administrative Fees

* * * * *

(i) You will be ineligible for any premium subsidy paid on your behalf by FCIC for any policy issued by us if:

(1) USDA determines you have committed a violation of the highly erodible land conservation or wetland conservation provisions of 7 CFR part 12 as amended by the Agricultural Act of 2014; or

(2) You have not filed form AD-1026 with FSA for the reinsurance year by the premium billing date.

(i) Notwithstanding section 7(i)(2), you may be eligible for premium subsidy without having a timely filed form AD-1026:

(A) For the initial reinsurance year if you certify by the premium billing date for your policy that you meet the qualifications as outlined in FCIC

approved procedures for producers who are new to farming, new to crop insurance, a new entity, or have not previously been required to file form AD-1026; or

(B) If FSA approves relief for failure to timely file due to circumstances beyond your control or failure to timely provide adequate information to complete form AD-1026 in accordance with the provisions contained in 7 CFR part 12.

(ii) To be eligible for premium subsidy paid on your behalf by FCIC, it is your responsibility to assure you meet all the requirements for:

(A) Compliance with the conservation provisions specified in section 7(i)(1) of this section; and

(B) Filing form AD-1026 to be properly identified as in compliance with the conservation provisions specified in section 7(i)(1) of this section.

* * * * *

PART 457—COMMON CROP INSURANCE REGULATIONS

■ 5. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l) and 1506(o).

■ 6. Amend § 457.8, in the Common Crop Insurance Policy, as follows:

■ a. Remove the phrase “Web site” wherever it appears and add the word “Web site” in its place;

■ b. Remove the phrase “replant payment” wherever it appears and add the phrase “replanting payment” in its place;

■ c. Under the heading “Reinsured Policies,” revise the third paragraph;

■ d. In section 1:

■ i. In the definition of “Actual Production History (APH),” remove “(G)” and add “G” in its place;

■ ii. In the definition of “Cooperative Extension System,” remove the phrase “Cooperative State Research, Education and Extension Service” and add the phrase “National Institute of Food and Agriculture” in its place;

■ iii. Remove the definition for “FSA farm serial number”;

■ iv. Add the definition for “FSA farm number”; and

■ v. Revise the definitions of “Good farming practices,” “Price election,” and “Replanted crop”;

■ e. In section 2:

■ i. Redesignate paragraph (e)(2) as paragraph (e)(3);

■ ii. Add a new paragraph (e)(2);

■ iii. In paragraph (f)(2)(i)(D), remove the date of “2011” and add the date “2019” in its place in both places and remove the date of “2010” and add the date “2018” in its place;

■ iv. Revise paragraph (f)(3)(ii);

■ v. In paragraph (f)(5), remove the date of “2010” and add the date “2018” in its place, remove the date of “2011” and add the date of “2019” in its place, and remove the date of “2012” and add the date of “2020” in its place, in each instance these dates appear in the paragraph;

■ vii. Remove paragraph (j); and

■ viii. Redesignate paragraph (k) as paragraph (j);

■ f. In section 3:

■ i. In paragraph (f)(3), add the phrase “, unless otherwise specified in the Special Provisions” following the phrase “by the production reporting date”; and

■ ii. In paragraph (h)(1), add the term “agronomic” following the phrase “you cannot prove there is a valid”;

■ g. In section 6:

■ i. In paragraph (a)(3)(i), remove the term “and” following the semicolon at the end of the paragraph;

■ ii. In paragraph (a)(3)(ii)(C), remove “(5)” and remove the period at the end of the paragraph and add “; and” in its place;

■ iii. Add paragraph (a)(3)(iii); and

■ iv. In paragraph (c)(5), remove the term “serial” following the phrase “FSA farm”;

■ h. Revise section 7(h);

■ i. In section 9(a)(2)(viii)(A), remove the phrase “the Group Risk Protection Plan of Insurance or successor provisions” and add the phrase “Area Risk Protection Insurance” in its place;

■ j. In section 17(f)(9) introductory text, remove the term “manpower” and add the term “labor” in its place;

■ k. In section 18:

■ i. In paragraphs (c)(1) and (2), remove the phrase “Special Provisions, or an addendum thereto,” and add the phrase “actuarial documents” in its place wherever it appears;

■ ii. In paragraph (e)(1), add the term “or” to the end of the paragraph following the semicolon;

■ iii. Revise paragraph (e)(2)(i)(B);

■ iv. In paragraph (e)(2)(iii), remove the term “or” following the semicolon;

■ v. Remove paragraph (e)(3);

■ vi. Revise paragraph (f)(1)(ii);

■ vii. In paragraph (f)(1)(iii), add the phrase “the crop,” following the phrase “to provide insurance for”;

■ viii. In paragraph (f)(1)(iv), remove the term “serial” following the phrase “FSA farm” and add the term “and” at the end of the paragraph following the semicolon;

■ ix. In paragraph (f)(1)(v), remove the term “and” following the semicolon at the end of the paragraph;

■ x. Remove paragraph (f)(1)(vi);

- xi. Revise paragraphs (f)(2)(i), (f)(2)(ii) introductory text, and (f)(2)(ii)(A) through (C);
- xii. In paragraph (f)(1)(iv), add the term “and” at the end of the paragraph following the semicolon;
- xiii. Remove paragraph (f)(2)(vi);
- xiv. In paragraph (g)(2), add the term “or” at the end of the paragraph following the semicolon;
- xv. Remove paragraph (g)(3);
- xvi. Redesignate paragraph (g)(4) as (g)(3);
- xvii. Revise paragraphs (h)(2) and (4); and
- xviii. In paragraph (h)(5), add the phrase “, practice, or type” following the phrase “experts determine the crop”;
- l. Revise section 21(b)(2); and
- m. In section 34:
 - i. In paragraphs (a)(4)(i)(C), (D), and (E) and (a)(4)(ii), remove the term “serial” following the phrase “FSA farm” wherever it appears;
 - ii. Revise paragraph (a)(4)(viii); and
 - iii. In paragraphs (c)(1)(ii) and (c)(2) and (3), remove the term “serial” following the phrase “FSA farm” wherever it appears.

The revisions and additions reads as follows:

§ 457.8 The application and policy.

* * * * *

Common Crop Insurance Policy

* * * * *

Reinsured Policies

* * * * *

AGREEMENT TO INSURE: In return for the payment of the premium, and subject to all of the provisions of this policy, we agree with you to provide the insurance as stated in this policy. If there is a conflict between the Act, the regulations published at 7 CFR chapter IV, and the procedures as issued by FCIC, the order of priority is: (1) The Act; (2) the regulations; and (3) the procedures as issued by FCIC, with (1) controlling (2), etc. If there is a conflict between the policy provisions published at 7 CFR part 457 and the administrative regulations published at 7 CFR part 400, the policy provisions published at 7 CFR part 457 control. If a conflict exists among the policy, the order of priority is: (1) The Catastrophic Risk Protection Endorsement, as applicable; (2) the Special Provisions; (3) the actuarial documents; (4) the Commodity Exchange Price Provisions, as applicable; (5) the Crop Provisions; and (6) these Basic Provisions, with (1) controlling (2), etc.

* * * * *

1. Definitions

* * * * *

FSA farm number. The number assigned to the farm by the local FSA office.

* * * * *

Good farming practices. The production methods utilized to produce the insured crop and allow it to make normal progress toward maturity and produce at least the yield used to determine the production guarantee or amount of insurance, including any adjustments for late planted acreage, which are those generally recognized by agricultural experts or organic agricultural experts, depending on the practice, for the area. We may, or you may request us to, contact FCIC to determine if production methods will be considered “good farming practices.”

* * * * *

Price election. The amount contained in the actuarial documents that is the value per pound, bushel, ton, carton, or other applicable unit of measure for the purposes of determining premium and indemnity under the policy. A price election is not applicable for crops for which revenue protection is available.

* * * * *

Replanted crop. (1) The same agricultural commodity replanted on the same acreage as the insured crop for harvest in the same crop year if:

- (i) The replanting is specifically made optional by the policy and you elect to replant the crop and insure it under the policy covering the first insured crop; or
- (ii) Replanting is required by the policy.

(2) Unless otherwise specified in the Special Provisions, the crop will be considered an insured replanted crop and no replanting payment will be paid if we have determined it is not practical to replant the insured crop and you choose to plant the acreage to the same insured crop within or prior to the late planting period or after the final planting date if no late planting period is applicable. If we determine it is not practical to replant and you plant the acreage to the same insured crop, any indemnity will be based on the greater of:

- (i) Our appraised production on the initially planted crop;
- (ii) Our subsequent appraisal of the replanted crop if the replanted crop is not harvested; or
- (iii) The harvested production from the replanted crop.

* * * * *

2. Life of Policy, Cancellation, and Termination

* * * * *

- (e) * * *

(2) If you and we agree, your premium and administrative fees can be offset

from any indemnity or prevented planting payment due you even if it is prior to the billing date of the premium and administrative fees.

* * * * *

- (f) * * *

- (3) * * *

(ii) Execute a written payment agreement, in accordance with 7 CFR part 400, subpart U, and make payments in accordance with the agreement; or

* * * * *

6. Report of Acreage

- (a) * * *

- (3) * * *

(iii) If you plant the insured crop on or within five days prior to the final planting date and the final planting date is five or fewer days prior to the acreage reporting date, you must submit an acreage report no later than five days after the acreage reporting date (for example, if the final planting date contained in the Special Provisions is July 10, the acreage reporting date contained in the Special Provisions is July 15 and you plant the insured crop on July 9, you have until July 20 to submit an acreage report for the insured crop).

* * * * *

7. Annual Premium and Administrative Fees

* * * * *

(h) You will be ineligible for any premium subsidy paid on your behalf by FCIC for any policy issued by us if:

- (1) USDA determines you have committed a violation of the highly erodible land conservation or wetland conservation provisions of 7 CFR part 12 as amended by the Agricultural Act of 2014; or

(2) You have not filed form AD-1026 with FSA for the reinsurance year by the premium billing date.

(i) Notwithstanding section 7(h)(2), you may be eligible for premium subsidy without having a timely filed form AD-1026:

(A) For the initial reinsurance year if you certify by the premium billing date for your policy that you meet the qualifications as outlined in FCIC approved procedures for producers who are new to farming, new to crop insurance, a new entity, or have not previously been required to file form AD-1026; or

(B) If FSA approves relief for failure to timely file due to circumstances beyond your control or failure to timely provide adequate information to complete form AD-1026 in accordance with the provisions contained in 7 CFR part 12.

(ii) To be eligible for premium subsidy paid on your behalf by FCIC, it

is your responsibility to assure you meet all the requirements for:

(A) Compliance with the conservation provisions specified in section 7(h)(1) of this section; and

(B) Filing form AD-1026 to be properly identified as in compliance with the conservation provisions specified in section 7(h)(1) of this section.

* * * * *

18. Written Agreements

* * * * *

(e) * * *

(2) * * *

(i) * * *

(B) Establish optional units in accordance with FCIC procedures that otherwise would not be allowed or change the premium rate or transitional yield for designated high-risk land;

* * * * *

(f) * * *

(1) * * *

(ii) A completed APH (only for crop policies that require APH) based on verifiable records of actual yields for the crop and county for which the written agreement is being requested (the actual yields do not necessarily have to be from the same physical acreage for which you are requesting a written agreement), and verifiable records of actual yields if required by FCIC;

* * * * *

(2) * * *

(i) For a crop you (or anyone with a substantial beneficial interest in you) have previously planted (or produced a crop if the crop is a perennial crop) in the county or area for at least three years:

(A) A completed APH (only for crop policies that require APH) based on verifiable production records of actual yields for the crop; and

(B) Verifiable production records for at least the three most recent crop years in which the crop was planted (or produced a crop if the crop is a perennial crop):

(1) The verifiable production records do not necessarily have to be from the same physical acreage for which you are requesting a written agreement;

(2) Verifiable production records do not have to be submitted for any year you (or anyone with a substantial beneficial interest in you) have insured the crop in the county or area and have certified the yields on the applicable production reports or the yields are based on your insurance claim (although you are not required to submit production records, you still must maintain production records in accordance with section 21); and

(3) FCIC will not consider any crop year in which the crop was planted (or

produced a crop if the crop is a perennial crop) outside of the most recent ten crop years as a year of previously planting the crop (or having produced a crop if the crop is a perennial crop), unless verifiable production records are provided, or the crop was insured for that crop year;

(ii) For a crop you (or anyone with a substantial beneficial interest in you) have not previously planted (or produced a crop if the crop is a perennial crop) in the county or area for at least three years:

(A) A completed APH (only for crop policies that require APH) based on verifiable production records of actual yields for the similar crop;

(B) Verifiable production records for at least the three most recent crop years in which the similar crop was planted (or produced a crop if the crop is a perennial crop) in the county or area:

(1) The verifiable production records for the similar crop do not necessarily have to be from the same physical acreage for which you are requesting a written agreement;

(2) Verifiable production records do not have to be submitted for any crop year you (or anyone with a substantial beneficial interest in you) have insured the similar crop in the county or area and have certified the yields on the applicable production reports or the yields are based on your insurance claim (although you are not required to submit production records, you still must maintain production records in accordance with section 21); and

(3) FCIC will not consider any crop year in which the similar crop was planted (or produced a crop if the crop is a perennial crop) outside of the most recent ten crop years as a year of previously planting the similar crop (or having produced a crop if the crop is a perennial crop), unless verifiable production records are provided, or the similar crop was insured, for that crop year;

(C) If you (or anyone with a substantial beneficial interest in you) have at least one year of production records, but less than three years of production records, for the crop in the county or area but have production records for a similar crop in the county or area such that the combination of both sets of records results in at least three years of production records, you must provide the information required in sections 18(f)(2)(i)(A) and (B) for the years you (or anyone with a substantial beneficial interest in you) planted the crop (or produced a crop if the crop is a perennial crop) in the county or area and the information required in sections 18(f)(2)(ii)(A) and (B) regarding the

similar crop for the remaining years; and

* * * * *

(h) * * *

(2) Your APH history demonstrates you have not produced at least 50 percent of the transitional yield for the crop, type, and practice obtained from the county, or a county with similar agronomic conditions and risk exposure, when previously grown;

* * * * *

(4) The crop, or a similar crop, was not previously grown in the county or area, or there is no evidence of a market for the crop (applicable only for counties without actuarial documents); or

* * * * *

21. Access to Insured Crop and Records, and Record Retention

* * * * *

(b) * * *

(2) All records used to establish the amount of production you certified on your production reports used to compute your approved yield for three years after the calendar date for the end of the insurance period for the crop year for which you initially certified such records, unless such records have already been provided to us (e.g., if you are a new insured and you certify 2015 through 2018 crop year production records in 2019 to determine your approved yield for the 2019 crop year, you must retain all records from the 2015 through 2018 crop years through the 2022 crop year. If you subsequently certify records of the 2019 crop year in 2020 to determine your approved yield for the 2020 crop year, you must retain the 2019 crop year records through the 2023 crop year and so forth for each subsequent year of production records certified); and

* * * * *

34. Units.

(a) * * *

(4) * * *

(viii) If allowed by the actuarial documents, you may elect separate enterprise units for irrigated or non-irrigated practices.

(A) You may elect one enterprise unit for all irrigated practices or one enterprise unit for all non-irrigated practices or enterprise units for both.

(B) You must separately meet the requirements in section 34(a)(4) for each enterprise unit.

(C) If you elected separate enterprise units for both irrigated and non-irrigated practices and we discover you do not qualify for an enterprise unit for the irrigated or non-irrigated practice and such discovery is made:

(1) On or before the acreage reporting date, you may elect to insure all acreage of the crop in the county in one enterprise unit provided you meet the requirements in section 34(a)(4), or your unit division will be based on basic or optional units, whichever you report on your acreage report and qualify for; or

(2) At any time after the acreage reporting date, your unit structure will be one enterprise unit provided you meet the requirements in section 34(a)(4). Otherwise, we will assign the basic unit structure.

(D) If you elected an enterprise unit on one practice (irrigated or non-irrigated) and a different unit structure on the other practice and we discover you do not qualify for an enterprise unit for the irrigated or non-irrigated practice and such discovery is made:

(1) On or before the acreage reporting date, your unit division will be based on basic or optional units, whichever you report on your acreage report and qualify for; or

(2) At any time after the acreage reporting date, we will assign the basic unit structure.

* * * * *

Signed in Washington, DC, on November 16, 2017.

Heather Manzano,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 2017-25330 Filed 11-22-17; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 25 and 195

[Docket ID OCC-2017-0008]

RIN 1557-AE15

FEDERAL RESERVE SYSTEM

12 CFR Part 228

[Docket No. R-1574]

RIN 7100-AE84

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 345

RIN 3064-AE58

Community Reinvestment Act Regulations

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

ACTION: Joint final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), and the Federal Deposit Insurance Corporation (FDIC) (collectively, the Agencies) are amending their regulations implementing the Community Reinvestment Act (CRA). The Agencies are modifying the existing definitions of “home mortgage loan” and “consumer loan,” related cross references, and the public file content requirements to conform to recent revisions made by the Consumer Financial Protection Bureau (Bureau) to Regulation C, which implements the Home Mortgage Disclosure Act (HMDA). This final rule also removes obsolete references to the Neighborhood Stabilization Program (NSP).

DATES: This rule is effective on January 1, 2018.

FOR FURTHER INFORMATION CONTACT:

OCC: Emily R. Boyes, Attorney, Community and Consumer Law Division, (202) 649-6350; Allison Hester-Haddad, Counsel, Legislative and Regulatory Activities Division, (202) 649-5490; for persons who are deaf or hearing impaired, TTY, (202) 649-5597; or Vonda J. Eanes, Director for CRA and Fair Lending Policy, Compliance Risk Policy Division, (202) 649-5470, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

Board: Amal S. Patel, Senior Supervisory Consumer Financial Services Analyst, Division of Consumer and Community Affairs, (202) 912-7879; Cathy Gates, Senior Project Manager, Division of Consumer and Community Affairs, (202) 452-2099, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

FDIC: Patience R. Singleton, Senior Policy Analyst, Supervisory Policy Branch, Division of Depositor and Consumer Protection, (202) 898-6859; Sharon B. Vejvoda, Senior Examination Specialist, Examination Branch, Division of Depositor and Consumer Protection, (202) 898-3881; Richard M. Schwartz, Counsel, Legal Division, (202) 898-7424; or Sherry Ann Betancourt, Counsel, Legal Division, (202) 898-6560, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Background

The OCC, the Board, and the FDIC implement the CRA (12 U.S.C. 2901 *et*

seq.) through their CRA regulations. *See* 12 CFR parts 25, 195, 228, and 345. The CRA is designed to encourage regulated financial institutions to help meet the credit needs of the local communities in which an institution is chartered. The CRA regulations establish the framework and criteria by which the Agencies assess a financial institution’s record of helping to meet the credit needs of its community, including low- and moderate-income neighborhoods, consistent with safe and sound operations. Under the CRA regulations, the Agencies apply different evaluation standards for financial institutions of different asset sizes and types.

The Agencies also publish the Interagency Questions and Answers Regarding Community Reinvestment to provide guidance on the interpretation and application of the CRA regulations to agency personnel, financial institutions, and the public.

On September 20, 2017, the Agencies published a joint notice of proposed rulemaking to amend their regulations implementing the CRA.¹ The Agencies proposed to amend the definitions of “home mortgage loan” and “consumer loan” and the public file content requirements to conform to revisions made by the Bureau to its Regulation C, which implements HMDA (2015 HMDA Rule).² The Agencies also proposed to make technical amendments to remove unnecessary cross references as a result of the proposed amended definitions, and to remove an obsolete reference to the NSP. The comment period for the Agencies’ joint proposed rulemaking ended on October 20, 2017.

Together, the Agencies received two comment letters on the proposed amendments. One comment was from a community organization and the other from a financial institution. Both commenters supported the changes proposed by the Agencies. The commenters also made additional suggestions not related to the proposal. These comments are explained in more detail in the sections they relate to. As explained below, the Agencies are finalizing the amendments as proposed.

II. Amendments To Conform the CRA Regulations to Recent Revisions to the Bureau’s Regulation C

Definition of “Home Mortgage Loan”

The CRA regulations specify the type of lending and other activities that examiners evaluate to assess a financial institution’s CRA performance. The regulations provide several categories of

¹ 82 FR 43910 (Sept. 20, 2017).

² *See* 80 FR 66127 (Oct. 28, 2015), as amended by 82 FR 19142 (Aug. 24, 2017).

loans that may be evaluated to determine a financial institution's performance under the retail lending test, one of which is home mortgage loans. 12 CFR _____.22. The current CRA regulations define a "home mortgage loan" to mean a "home improvement loan," "home purchase loan," or a "refinancing" as those terms are currently defined in 12 CFR 1003.2 of the Bureau's Regulation C. 12 CFR _____.12(l). However, effective January 1, 2018, the 2015 HMDA Rule revises the scope of loans reportable under Regulation C. In some cases, the revised scope of loans under Regulation C is broader, and in other cases more limited. Effective January 1, 2018, Regulation C will require covered financial institutions to report applications for, and originations and purchases of, "covered loans" that are secured by a dwelling. A "covered loan" is defined in 12 CFR 1003.2(e) to mean a closed-end mortgage loan, as defined in § 1003.2(d), or an open-end line of credit, as defined in § 1003.2(o), that is not an excluded transaction under 12 CFR 1003.3(c).³

³ Amended Regulation C retains existing categories of excluded transactions, clarifies some categories of excluded transactions, and expands the existing exclusion for agricultural-purpose transactions. Effective January 1, 2018, the following transactions will not be reportable under Regulation C:

1. A closed-end mortgage loan or open-end line of credit originated or purchased by a financial institution acting in a fiduciary capacity;
2. A closed-end mortgage loan or open-end line of credit secured by a lien on unimproved land;
3. Temporary financing;
4. The purchase of an interest in a pool of closed-end mortgage loans or open-end lines of credit;
5. The purchase solely of the right to service closed-end mortgage loans or open-end lines of credit;
6. The purchase of closed-end mortgage loans or open-end lines of credit as part of a merger or acquisition, or as part of the acquisition of all of the assets and liabilities of a branch office as defined in 12 CFR 1003.2(c);
7. A closed-end mortgage loan or open-end line of credit, or an application of a closed-end mortgage loan or open-end line of credit, for which the total dollar amount is less than \$500;
8. The purchase of a partial interest in a closed-end mortgage loan or open-end line of credit;
9. A closed-end mortgage loan or open-end line of credit used primarily for agricultural purposes;
10. A closed-end mortgage loan or open-end line of credit that is or will be made primarily for a business or commercial purpose, unless the closed-end mortgage loan or open-end equity line of credit is a home improvement loan under § 1003.2(i), a home purchase under § 1003.2(j), or a refinancing under § 1003.2(p);

11. A closed-end mortgage loan, if the financial institution originated fewer than 25 closed-end mortgage loans in either of the two preceding calendar years; a financial institution may collect, record, report, and disclose information, as described in §§ 1003.4 and 1003.5, for such an excluded closed-end mortgage loan as though it were a covered loan, provided that the financial institution complies with such requirements for all

To conform the CRA definition of "home mortgage loan" to the revisions in Regulation C that will become effective on January 1, 2018, the Agencies proposed to revise the current definition of "home mortgage loan" in their CRA regulations to mean a "closed-end mortgage loan" or an "open-end line of credit," as those terms are defined under new 12 CFR 1003.2(d) and (o), respectively, and as may be amended from time to time, and that is not an excluded transaction under new 12 CFR 1003.3(c)(1)–(10) and (13), as may be amended from time to time.⁴

As a result of the revisions to the "home mortgage loan" definition, the manner in which some loan transactions are considered under CRA will be affected. As the Agencies explained in the proposed rule, effective January 1, 2018, home improvement loans that are

applications for closed-end mortgage loans that it receives, closed-end mortgage loans that it originates, and closed-end mortgage loans that it purchases that otherwise would have been covered loans during the calendar year during which final action is taken on the excluded closed-end mortgage loan; or

12. An open-end equity line of credit, if the financial institution originated fewer than 500 open-end equity lines of credit in either of the two preceding calendar years; a financial institution may collect, record, report, and disclose information, as described in §§ 1003.4 and 1003.5, for such an excluded open-end line of credit as though it were a covered loan, provided that the financial institution complies with such requirements for all applications for open-end lines of credit that it receives, open-end lines of credit that it originates, and open-end lines of credit that it purchases that otherwise would have been covered loans during the calendar year during which final action is taken on the excluded open-end line of credit (the threshold of 500 open-end lines of credit is temporary and applies only to calendar years 2018 and 2019; absent action from the Bureau, the threshold for reporting open-end lines of credit reverts to 100 such lines effective January 1, 2020); or

13. A transaction that provided or, in the case of an application, proposed to provide new funds to the applicant or borrower in advance of being consolidated in a New York State consolidation, extension, and modification agreement classified as a supplemental mortgage under New York Tax Law section 255; the transaction is excluded only if final action on the consolidation was taken in the same calendar year as final action on the new funds transaction.

⁴ On September 13, 2017, the Bureau published in the **Federal Register** a final rule (2017 HMDA Rule) amending the 2015 HMDA Rule. The 2017 HMDA Rule finalizes a proposal issued by the Bureau on April 25, 2017 (82 FR 19142) to address technical errors, ease the burden associated with certain reporting requirements, and to clarify some key terms. The 2017 HMDA Rule also finalizes a proposal issued by the Bureau on July 14, 2017 (82 FR 33455), to temporarily increase the institutional and transactional coverage thresholds for open-end lines of credit. See http://files.consumerfinance.gov/f/documents/201708_cfpb_final-rule_home-mortgage-disclosure-regulation-c.pdf. The 2017 HMDA Rule adds a new exclusion from reporting HMDA data for certain transactions concerning New York consolidation, extension, and modification agreements (also known as NY CEMAs) under new § 1003.3(c)(13).

not secured by a dwelling, which are currently required to be reported under Regulation C, will no longer be reportable transactions under the 2015 HMDA Rule. Therefore, also effective January 1, 2018, for purposes of CRA, home improvement loans that are not secured by a dwelling may be considered at the option of the financial institution. A financial institution that opts to have its home improvement loans considered would need to collect and maintain data on these loans in machine-readable form under the category of "other secured consumer loan" or "other unsecured consumer loan," as appropriate. See 12 CFR _____.12(j)(3) or (4). Notwithstanding an institution's option, home improvement loans that are not secured by a dwelling may still be evaluated by the Agencies under the lending test set out under 12 CFR _____.22(a)(1), in circumstances where consumer lending is so significant a portion of an institution's lending by activity and dollar volume of loans that the lending test evaluation would not meaningfully reflect lending performance if consumer loans were excluded.

Home equity lines of credit secured by a dwelling, which are currently reported at the option of the financial institution under Regulation C, will be covered loans under the 2015 HMDA Rule. Effective January 1, 2018, financial institutions that meet the reporting requirements under the 2015 HMDA Rule will be required to collect, maintain, and report data on home equity lines of credit secured by a dwelling. For purposes of CRA consideration, in the case of financial institutions that report closed-end mortgage loans and/or home equity lines of credit under the 2015 HMDA Rule, those loans would be considered as home mortgage loans under the amended definition of "home mortgage loan." The effect of this revision to the home mortgage loan definition will vary depending upon the amount and characteristics of the financial institution's mortgage loan portfolio. As with all aspects of an institution's CRA performance evaluation, the performance context of the institution will affect how the Agencies will consider home equity lines of credit. For financial institutions that would not be required to report these transactions under Regulation C, examiners may review the relevant files and consider these loans for CRA performance on a sampling basis under the home mortgage loan category.

The Agencies received one comment addressing the proposed revision. This commenter supported amending the

definition of “home mortgage loan” in the Agencies’ CRA regulations to conform to the changes in the scope of Regulation C. However, the commenter noted that some banks expressed concern that including home equity loans in CRA evaluations could have the effect of lowering the percentage of loans to low- and moderate-income borrowers and suggested that the Agencies consider evaluating home equity lending separately from other types of home lending. This commenter also urged the Agencies to consider loan purchases separately from originations during the CRA evaluation.

The commenter’s suggestions to consider home equity lending separately from other home mortgage lending and to consider purchases separately from originations would require that the Agencies reconsider how various loan types are evaluated under the CRA. The Agencies did not propose these changes and believe these suggestions would be better considered in connection with updates to the Agencies’ CRA examination procedures and/or guidance. Accordingly, the Agencies are finalizing the revised definition of “home mortgage loan” as proposed. The Agencies have used the scope of HMDA-reportable transactions to define “home mortgage loan” in the CRA regulations since 1995. The Agencies will review any amendments made to the cross-referenced definitions in HMDA to ensure that such cross-referenced terms continue to meet the statutory objectives of the CRA.

Definition of “Consumer Loan”

The CRA regulations provide a definition of “consumer loan” to define a category of loans that examiners should evaluate to determine a financial institution’s performance under the retail lending test apart from home mortgage, small business, or small farm loans. 12 CFR _____.22. The current CRA regulations define a “consumer loan” to mean a loan to one or more individuals for household, family, or other personal expenditures and that is *not* a home mortgage, small business, or small farm loan. See 12 CFR _____.12(j). Currently, a “home equity loan” is one of five loan categories listed under the definition of “consumer loan” and is defined as a “consumer loan secured by a residence of the borrower” under 12 CFR _____.12(j)(3). As noted above, the Agencies proposed to define “home mortgage loan” as a “closed-end mortgage loan” or an “open-end line of credit” as those terms are defined in §§ 1003.2(d) and 1003.2(o), respectively, of Regulation C. Under Regulation C, a closed-end mortgage loan is defined “as

an extension of credit secured by a lien on a dwelling,” and therefore, includes a home equity loan secured by a dwelling, per 12 CFR 1003.2(d), effective January 1, 2018. As a result, the Agencies believed it was no longer appropriate to separately categorize home equity loans under the CRA definition of “consumer loan” because both home equity loans and home equity lines of credit would be captured by the revised CRA definition of “home mortgage loan.” Accordingly, the Agencies proposed to remove the term “home equity loan” from the list of consumer loan categories provided under the definition of “consumer loan” in 12 CFR _____.12(j).

The Agencies received one comment addressing the proposed revision. This commenter supported amending the definition of “consumer lending” in the Agencies’ CRA regulations to conform to changes in the scope of loans reportable under Regulation C that will be effective January 1, 2018. This commenter further urged the Agencies to have examiners evaluate consumer lending, including unsecured home improvement lending, during CRA exams when such lending constitutes a “significant amount” of the bank’s business rather than a “substantial majority,” as is currently required under 12 CFR _____.22(a)(1).

The Agencies did not address in the proposal how consumer lending should be evaluated under the retail lending test and therefore, addressing these recommendations is outside the scope of this final rule. Accordingly, the Agencies are finalizing the definition of “consumer lending” as proposed. Note, however, that in accordance with their statutory responsibilities, the Agencies regularly review examination policies, procedures, and guidance to better serve the goals of the CRA.

Changes to the Content of the Public File

Currently, the Agencies’ CRA regulations require that financial institutions maintain a public file of certain information and specify, among other things, the information to be maintained and made available to the public upon request. 12 CFR _____.43(a)-(d). If a financial institution is required to report HMDA data under Regulation C, it must also include a copy of the HMDA disclosure statement (provided by the Federal Financial Institutions Examination Council) in its CRA public file for each of the prior two calendar years. 12 CFR _____.43(b)(2). Effective January 1, 2018, Regulation C will no longer require financial institutions to provide this HMDA disclosure statement directly to the public. Instead,

Regulation C will only require financial institutions to provide a notice that clearly conveys to the public that they can obtain a copy of the financial institution’s disclosure statement on the Bureau’s Web site. 12 CFR 1003.5(b). As a result, the Agencies proposed to amend the CRA public file content requirements under 12 CFR _____.43(b)(2) for consistency and to reduce burden. Specifically, the Agencies proposed that institutions that are required to report HMDA data would only maintain the notice required under section 1003.5(b) of Regulation C in their CRA public file, rather than a copy of the HMDA disclosure statement. Nevertheless, a financial institution must maintain in its public file the HMDA disclosure statements required by the CRA regulations that are not available on the Bureau’s Web site and, therefore, should not remove HMDA disclosure statements from their CRA public files if that information is not available on the Bureau’s Web site.

The Agencies received no comments on the proposed changes to the CRA public file content requirements. Accordingly, the Agencies are adopting the revisions as proposed.

Technical Amendments

Removal of “Home Equity Loan” as a Category of Consumer Loans

As discussed above, the Agencies proposed to remove “home equity loans” as a category of loans included as consumer loans because such loans would be captured by the revised definition of “home mortgage loan.” 12 CFR _____.12(j). Accordingly, the Agencies proposed to amend 12 CFR _____.22, Lending Test, and 12 CFR _____.42, Data Collection, Reporting, and Disclosure to remove any cross-reference to home equity loan as a category of “consumer loans.”

The Agencies received no comments on the proposed amendments to 12 CFR _____.22 and 12 CFR _____.42 and finalizes them as proposed.

Technical Revision to the “Community Development Loan” Definition

The current CRA regulations’ definition of “community development loan” contains a cross-reference to appendix A of Regulation C in order to incorporate a description of a multifamily dwelling loan that is provided in appendix A of Regulation C.

The Agencies proposed to remove this cross-reference to appendix A because appendix A of Regulation C will no longer exist. The 2015 HMDA Rule moved the substantive requirements found in existing appendix A to the

regulation text and commentary of Regulation C and also eliminated paper reporting, effective January 1, 2019. As a result, any cross-reference to appendix A of Regulation C will become obsolete. The Agencies further proposed to instead cross-reference the newly defined term of “multifamily dwelling” contained in § 1003.2(n) of Regulation C.

The Agencies received no comments in connection with proposed 12 CFR _____.12(h) and are finalizing as proposed.

Removal of Obsolete Language Related to the NSP

The Agencies also proposed to remove language in the CRA regulations related to the NSP. The CRA regulations currently define “community development” to include qualifying NSP-related activities that benefit low-, moderate-, and middle-income individuals and geographies in NSP-target areas.⁵ The NSP was authorized by the Housing and Economic Recovery Act⁶ to stabilize communities suffering from foreclosures and abandonment. However, after March 2016, NSP-eligible activities no longer received consideration as “community development” under the CRA regulations and therefore, any reference to such activities is no longer needed. Accordingly, the Agencies proposed to amend 12 CFR _____.12 to revise the definition of “community development” by removing qualifying NSP-related activities that benefit low-, moderate-, and middle-income individuals and geographies in NSP-targeted areas.

The Agencies received one comment in connection with this proposed revision, which supported the Agencies’ efforts to streamline and eliminate the obsolete reference. This commenter also suggested that the Agencies consider consolidating the categories of economic development and revitalization and stabilization under the “community development” definition, as many loans fit into both categories, and create a new category for review and focus of veterans’ activities.

The Agencies did not propose to make these additional changes to the definition of “community development” and therefore, such recommendations did not receive the benefit of notice and public comment. Accordingly, the Agencies are finalizing the revisions to 12 CFR _____.12 as proposed.

Effective Date

The Agencies proposed an effective date of January 1, 2018, to conform to the effective date of the revisions resulting from the Bureau’s Regulation C. The Agencies received no comments on the proposed effective date. Therefore, this final rule becomes effective on January 1, 2018.

Regulatory Analysis

Regulatory Flexibility Act

OCC: In general, the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) requires an agency, in connection with a final rule, to prepare a Final Regulatory Flexibility Analysis describing the impact of the final rule on small entities or to certify that the final rule would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, the Small Business Administration defines small entities as those with \$550 million or less in assets for commercial banks and savings institutions and \$38.5 million or less in assets for trust companies.

The scope of the OCC’s CRA rule generally covers national banks, insured Federal branches, and Federal and state savings associations. The OCC currently supervises approximately 956 small entities. The FDIC currently supervises approximately 44 small entities that are state savings associations. Although the final rule would apply to all of these small entities, we anticipate that the final rule would result only in *de minimis* compliance costs for these OCC- and FDIC-supervised institutions.

Further, any burden that may be associated with changes made to Regulation C HMDA reporting are a result of Bureau rulemakings. However, the final rule may reduce regulatory costs for covered financial institutions that are required to report HMDA data because those institutions would no longer be required to keep two years of HMDA disclosure statements in their CRA public file. Instead, covered financial institutions would provide a notice in the public file with a Web site address indicating where the HMDA disclosure statements can be accessed. Among the small entities that the OCC currently supervises, 518 are HMDA reporters. Among the small entities that the FDIC currently supervises, approximately 35 are HMDA reporters. By not having to keep paper copies of the HMDA disclosure statements in their CRA public file, the OCC estimates that the savings for these small entities will be less than \$1,142 (10 hours × \$114.20 per hour) per entity.

Therefore, the final rule will not have a significant economic impact on a substantial number of small entities. Accordingly, the OCC certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Board: An initial regulatory flexibility analysis (IRFA) was included in the proposal in accordance with section 3(a) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). In the IRFA, the Board requested comment on the effect of the proposed rule on small entities and on any significant alternatives that would reduce the regulatory burden on small entities. The Board did not receive any comments. The RFA requires an agency to prepare a final regulatory flexibility analysis unless the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.⁷ In accordance with section 3(a) of the RFA, the Board has reviewed the final regulation. Based on its analysis, and for the reasons stated below, the Board certifies that the rule will not have a significant economic impact on a substantial number of small entities.

There are 820 Board-supervised state member banks, and 566 are identified as small entities according to the RFA.⁸ The Board estimates that the final rule will have generally small economic effects for small entities. The new changes to the content requirements of the CRA public file may reduce recordkeeping burden for covered financial institutions. Additionally, the Board expects that the changes to definitions within the CRA regulations will have little impact on supervisory assessments of CRA performance generally, but could affect some financial institutions more than others depending upon the amount and characteristics of their loan portfolio.

The final rule changes the content requirements of the CRA public file for financial institutions that are HMDA reporters. Financial institutions that are required to report HMDA data can maintain the same notice required under Regulation C in their CRA public file of their branch office, rather than the HMDA disclosure statement currently required. By allowing covered financial institutions to utilize a shorter disclosure, the final rule may reduce regulatory costs. As previously stated, there are 566 Board-supervised entities that are identified as small entities by the terms of the RFA. Of those, 304 were

⁵ 75 FR 79278 (Dec. 20, 2010).

⁶ Public Law 110–289, 122 Stat. 2654 (2008).

⁷ See 5 U.S.C. 601 *et seq.*

⁸ Call Report Data as of June 30, 2017.

HMDA filers in 2016.⁹ All FDIC-insured financial institutions reported having 31,096 branch offices, for an average of 7.9 branches per financial institution.¹⁰ The Board assumes it takes one employee 10 minutes at a rate of \$76.65 an hour¹¹ to print and file the HMDA notification per year and place it in the CRA public file. This equates to an estimated annual printing and filing cost of \$12.78 per branch office. Therefore, complying with the new rule will save small entities an estimated \$30,692.45 in costs per year.¹²

The Board expects the changes to definitions within the CRA regulations generally to have little economic effect for small entities, however the amendments could pose some effects for individual entities depending upon the amount and characteristics of their loan portfolio. As noted previously, in some cases the revised scope of loans under Regulation C is broader, and in other cases, it is more limited. These changes could affect supervisory assessment of CRA performance for small entities. However, it is unlikely that small financial institutions will be significantly affected given that HMDA reporting will be limited to financial institutions that originate more than 25 home mortgage loans or 100 home equity lines of credit each year.¹³ There could be a net effect on CRA examination results for some small entities which may, in turn, affect the future behavior of those financial institutions. But, it is difficult to

accurately determine the likelihood and degree of aggregate lending or economic effects that may result because they are dependent upon firm-specific business plans and propensities to lend.

Finally, Board-supervised small entities will likely benefit from the harmonization of definitions within the CRA regulations with HMDA data reporting requirements by avoiding unnecessary confusion and costs. Inconsistencies between CRA examination metrics and the HMDA data, which is used to assess CRA performance, could lead to misleading results causing small entities to change future lending behavior.

FDIC: The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires that, in connection with a final rule, an agency prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of a final rule on small entities (defined in regulations promulgated by the Small Business Administration to include banking organizations with total assets of less than or equal to \$550 million). A regulatory flexibility analysis, however, is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities, and publishes its certification and a short explanatory statement in the **Federal Register** together with the final rule. For the reasons provided below, the FDIC certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

There are 3,717 FDIC-supervised financial institutions, and 2,990 are identified as small entities according to the RFA.¹⁴ The FDIC estimates that the final rule will have generally small economic effects for small entities. The new changes to the content requirements of the CRA public file may reduce regulatory costs for covered financial institutions. Additionally, the FDIC expects that the changes to definitions within the CRA regulations will have little impact on supervisory assessments of CRA performance generally, but could affect some financial institutions more than others depending upon the amount and characteristics of their loan portfolio.

The final rule changes the content requirements of the CRA public file for financial institutions that are HMDA reporters. Financial institutions required to report HMDA data can maintain the same notice required under Regulation C in the CRA public file of their branch office, rather than

the HMDA disclosure statement currently required. By allowing covered financial institutions to utilize a shorter disclosure, the final rule may reduce regulatory costs. As previously stated, there are 2,990 FDIC-supervised entities that are identified as small entities by the terms of the RFA. Of those, 1,549 were HMDA filers in 2016.¹⁵ These 1,549 FDIC-insured financial institutions reported having 6,845 branch offices, for an average of 4.4 branches per financial institution.¹⁶ The FDIC assumes it takes one employee 10 minutes at a rate of \$76.65 an hour¹⁷ to print and file the HMDA notification per year and place it in the CRA public file. This equates to an estimated annual printing and filing cost of \$12.78 per branch office. Therefore, complying with the new rule may save small entities an estimated \$87,069 in costs per year.¹⁸

The FDIC expects the changes to definitions within the CRA regulations generally to have little economic effect for small entities; however, the amendments could pose some effects for individual entities depending upon the amount and characteristics of their loan portfolio. As noted previously, in some cases the revised scope of loans under Regulation C is broader, and in other cases, it is more limited. These changes could affect supervisory assessment of CRA performance for small entities. However, it is unlikely that small financial institutions will be significantly affected given that HMDA reporting will be limited to financial institutions that originate more than 25 home mortgage loans or 100 home equity lines of credit each year.¹⁹ There

⁹ 2016 HMDA Data and Call Report Data as of June 30, 2017.

¹⁰ 2015 Summary of Deposits Data.

¹¹ Estimated total hourly compensation for Compliance Officers in the Depository Credit Intermediation sector as of June 2017. The estimate includes the May 2016 90th percentile hourly wage rate reported by the Bureau of Labor Statistics, National Industry-Specific Occupational Employment, and Wage Estimates. This wage rate has been adjusted for changes in the Consumer Price Index for all Urban Consumers between May 2016 and June 2017 (1.85 percent) and grossed up by 35.5 percent to account for non-monetary compensation as reported by the June 2017 Employer Costs for Employee Compensation Data.

¹² Assuming that each covered institution will no longer have to print and file the HMDA disclosure statement, the recordkeeping burden for each branch office declines by 10 minutes for all 7.9 branch offices, for all 304 small entities that are HMDA filers.

¹³ The open-end lines of credit threshold will increase from 100 to 500 loans on a temporary basis for a period of two years (calendar years 2018 and 2019) pursuant to the 2017 HMDA Rule. The Bureau is not making the threshold increase for open-end lines of credit permanent at this time. Absent further action by the Bureau, effective January 1, 2020, the open-end threshold will be restored to the 2015 HMDA Rule level of 100 open-end lines of credit, and creditors originating between 100 and 499 open-end lines of credit will need to begin collecting and reporting HMDA data for open-end lines of credit at that time.

¹⁵ 2016 HMDA Data and Call Report Data as of June 30, 2017.

¹⁶ 2017 Summary of Deposits Data.

¹⁷ Estimated total hourly compensation for Compliance Officers in the Depository Credit Intermediation sector as of June 2017. The estimate includes the May 2016 90th percentile hourly wage rate reported by the Bureau of Labor Statistics, National Industry-Specific Occupational Employment, and Wage Estimates. This wage rate has been adjusted for changes in the Consumer Price Index for all Urban Consumers between May 2016 and June 2017 (1.85 percent) and grossed up by 35.5 percent to account for non-monetary compensation as reported by the June 2017 Employer Costs for Employee Compensation Data.

¹⁸ Assuming that each covered institution will no longer have to print and file the HMDA disclosure statement, the recordkeeping burden for each branch office declines by 10 minutes for all 4.4 branch offices, for all 1,549 small entities that are HMDA filers.

¹⁹ The open-end lines of credit threshold will increase from 100 to 500 loans on a temporary basis for a period of two years (calendar years 2018 and 2019) pursuant to the 2017 HMDA Rule. The Bureau is not making the threshold increase for open-end lines of credit permanent at this time. Absent further action by the Bureau, effective January 1, 2020, the open-end threshold will be

¹⁴ Call Report Data as of June 30, 2017.

could be a net effect on CRA examination results for some small entities which may, in turn, affect the future behavior of those financial institutions. But, it is difficult to accurately determine the likelihood and degree of aggregate lending or economic effects that may result because they are dependent upon firm-specific business plans and propensities to lend.

Finally, FDIC-supervised small entities would likely benefit from the harmonization of definitions within the CRA regulations with HMDA data reporting requirements by avoiding unnecessary confusion and costs. Inconsistencies between CRA examination metrics and the HMDA data, which is used to assess CRA performance, could lead to misleading results causing small entities to change future lending behavior.

Paperwork Reduction Act of 1995

Certain provisions of the final rule contain “collection of information” requirements within the meaning of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521). In accordance with the requirements of the PRA, the Agencies may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently-valid Office of Management and Budget (OMB) control number. The information collection requirements contained in this final rule have been submitted by the OCC and FDIC to OMB for review and approval under section 3507(d) of the PRA (44 U.S.C. 3507(d)) and § 1320.11 of the OMB’s implementing regulations (5 CFR part 1320). The OCC and the FDIC submitted the collection of information at the proposed rule stage as well and were directed by OMB to examine public comment and resubmit at the final rule stage. The OMB control number for the OCC is 1557–0160 and the FDIC is 3064–0092. The OMB control number for the Board is 7100–0197 and will be extended, with revision. The Board reviewed the final rule under the authority delegated to the Board by OMB.

Under this final rule, effective January 1, 2018, financial institutions required to collect data under the CRA would also be required to collect data for open-end lines of credit in MSA and non-MSA areas where they have no branch or home office. The Agencies estimate that this change will not result in an increase in burden under the currently

approved CRA information collections because the burden associated with the above-described requirement is accounted for under the HMDA information collections.²⁰

The Agencies have determined that the revised definition of “home mortgage loan” to include home equity lines of credit and to exclude home improvement loans that are not secured by a dwelling (*i.e.*, home improvement loans that are unsecured or that are secured by some other type of collateral) does not warrant a change to the current burden estimates.

The Agencies received no comments on the PRA. However, the Agencies invite comments on:

(a) Whether the collections of information are necessary for the proper performance of the Agencies’ functions, including whether the information has practical utility;

(b) The accuracy of the estimates of the burden of the information collections, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

All comments will become a matter of public record. Comments on aspects of this notice that may affect reporting, recordkeeping, or disclosure requirements and burden estimates should be sent to:

OCC: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0160, 400 7th Street SW., Suite 3E–218, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to prainfo@occ.treas.gov. You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling

(202) 649–6700 or, for persons who are deaf or hearing impaired, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments. All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Board: Comments on aspects of this rule that may affect reporting, recordkeeping, or disclosure requirements and burden estimates should be sent by any of the following methods:

- *Agency Web site:* <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/apps/foia/proposedregs.aspx>.

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Email:* regs.comments@federalreserve.gov. Include OMB number in the subject line of the message.

- *FAX:* (202) 452–3819 or (202) 452–3102.

- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

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

FDIC: The FDIC invites comments on aspects of this rule that may affect reporting, recordkeeping, or disclosure requirements and burden estimates. Comments may be sent by any of the following methods:

- *Agency Web site:* <https://www.fdic.gov/regulations/laws/federal/propose.html>.

Follow instructions for submitting comments on the Agency Web site.

- *Email:* Comments@fdic.gov. Include the RIN 3064–AE58 on the subject line of the message.

- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal

restored to the 2015 HMDA Rule level of 100 open-end lines of credit, and creditors originating between 100 and 499 open-end lines of credit will need to begin collecting and reporting HMDA data for open-end lines of credit at this time.

²⁰ OMB Control Number 1557–0159 (OCC); OMB Control Number 7100–0247 (Board); and OMB Control Number 3064–0046 (FDIC).

Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

- *Hand Delivery:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m.

Instructions: All comments received must include the agency name and RIN 3064-AE58 for this rulemaking. All comments received will be posted without change to <https://www.fdic.gov/regulations/laws/federal/propose.html>, including any personal information provided. Paper copies of public comments may be ordered from the FDIC Public Information Center, 3501 North Fairfax Drive, Room E-1002, Arlington, VA 22226 by telephone at (877) 275-3342 or (703) 562-2200.

A copy of the comments may also be submitted to the OMB desk officer for the Agencies: By mail to U.S. Office of Management and Budget, 725 17th Street NW., # 10235, Washington, DC 20503; by facsimile to (202) 395-5806; or by email to: oir_submission@omb.eop.gov, Attention, Federal Banking Agency Desk Officer.

Information Collection

Title of Information Collection: Reporting, Recordkeeping, and Disclosure Requirements Associated with the Community Reinvestment Act (CRA).

Frequency of Response: Annually.

Affected Public: Businesses or other for-profit.

Respondents:

OCC: National banks, trust companies, savings associations (except special purpose savings associations pursuant to 12 CFR 195.11(c)(2)), insured Federal branches and any Federal branch that is uninsured that results from an acquisition described in section 5(a)(8) of the International Banking Act of 1978 (12 U.S.C. 3103(a)(8)).

Board: State member banks.

FDIC: Insured state nonmember banks and insured state branches.

Abstract: The CRA was enacted in 1977 and is implemented by 12 CFR parts 25, 195, 228, and 345. The CRA directs the Agencies to evaluate financial institutions' records of helping to meet the credit needs of their entire communities, including low- and moderate-income areas consistent with the safe and sound operation of the institutions. The CRA is implemented through regulations issued by the Agencies.²¹

²¹ The Dodd-Frank Wall Street Reform and Consumer Protection Act (15 U.S.C. 5413) transferred from the Office of Thrift Supervision all

In 1995, the federal banking agencies issued substantially identical regulations under the CRA to reduce unnecessary compliance burden, promote consistency in CRA assessments, and encourage improved performance.²² As a result, the current reporting, recordkeeping, and disclosure requirements under the CRA regulations depend in part on a bank's size.

Under the CRA regulations, large banks are defined as those with assets of \$1.226 billion or more for the past two consecutive year-ends; all other banks are considered small or intermediate.²³ The banking agencies amend the definition of a small bank and an intermediate small bank in their CRA regulations each year when the asset thresholds are adjusted for inflation pursuant to the CRA regulations, most recently in January 2017.²⁴

Other than the information collections pursuant to the CRA, the Agencies have no information collection that supplies data regarding the community reinvestment activities.

PRA Burden Estimates

OCC

Number of respondents:

Recordkeeping requirement, small business and small farm loan register, 142; Optional recordkeeping requirements, consumer loan data, 85, and other loan data, 25; Reporting requirements, assessment area delineation, 189; loan data: Small business and small farm, 142, community development, 142, and HMDA out of MSA, 142; Optional reporting requirements, data on lending by a consortium or third party, 31; affiliate lending data, 9; request for strategic plan approval, 5; request for designation as a wholesale or limited purpose bank, 12; Disclosure requirement, public file, 1,234.

Estimated average hours per response:

Recordkeeping requirement, small business and small farm loan register: 219 hours; Optional recordkeeping

requirements (including rulemaking) relating to savings associations to the OCC and all authorities (including rulemaking) relating to savings and loan holding companies to the Board on July 21, 2011.

²² See 60 FR 22156 (May 4, 1995).

²³ Beginning January 18, 2017, banks and savings associations that, as of December 31 of either of the prior two calendar years, had assets of less than \$1.226 billion are small banks or small savings associations. Small banks or small savings associations with assets of at least \$307 million as of December 31 of both of the prior two calendar years, and less than \$1.226 billion as of December 31 of either of the prior two calendar years, are intermediate small banks or intermediate small savings associations.

²⁴ See 82 FR 5354 (Jan. 18, 2017).

requirements, consumer loan data, 326 hours, and other loan data, 25 hours; Reporting requirements, assessment area delineation, 2 hours; loan data: Small business and small farm, 8 hours, community development, 13 hours, and HMDA out of MSA, 253 hours; Optional reporting requirements, data on lending by a consortium or third party, 17 hours; affiliate lending data, 38 hours; request for strategic plan approval, 275 hours; request for designation as a wholesale or limited purpose bank, 4 hours; Disclosure requirement, public file, 10 hours.

Estimated annual reporting hours:

Recordkeeping requirement, small business and small farm loan register: 31,098 hours; Optional recordkeeping requirements, consumer loan data, 27,710 hours and other loan data, 625 hours; Reporting requirements, assessment area delineation, 378 hours; loan data: Small business and small farm, 1,136 hours, community development, 1,846 hours, and HMDA out of MSA, 35,926 hours; Optional reporting requirements, data on lending by a consortium or third party, 527 hours; affiliate lending data, 342 hours; request for strategic plan approval, 1,375 hours; request for designation as a wholesale or limited purpose bank, 48 hours; Disclosure requirement, public file, 12,340 hours.

Total annual burden: 113,351 hours.

Board

Number of respondents:

Recordkeeping requirement, small business and small farm loan register, 94; Optional recordkeeping requirements, consumer loan data, 21, and other loan data, 15; Reporting requirements, assessment area delineation, 98; loan data: Small business and small farm, 94, community development, 98, and HMDA out of MSA, 89; Optional reporting requirements, data on lending by a consortium or third party, 9; affiliate lending data, 8; request for strategic plan approval, 2; request for designation as a wholesale or limited purpose bank, 1; Disclosure requirement, public file, 817.

Estimated average hours per response:

Recordkeeping requirement, small business and small farm loan register: 219 hours; Optional recordkeeping requirements, consumer loan data, 326 hours, and other loan data, 25 hours; Reporting requirements, assessment area delineation, 2 hours; loan data: Small business and small farm, 8 hours, community development, 13 hours, and HMDA out of MSA, 253 hours; Optional reporting requirements, data on lending by a consortium or third party, 17 hours;

affiliate lending data, 38 hours; request for strategic plan approval, 275 hours; request for designation as a wholesale or limited purpose bank, 4 hours; Disclosure requirement, public file, 10 hours.

Estimated annual reporting hours:
Recordkeeping requirement, small business and small farm loan register:

20,586 hours; Optional recordkeeping requirements, consumer loan data, 6,846 hours and other loan data, 375 hours; Reporting requirements, assessment area delineation, 196 hours; loan data: Small business and small farm, 752 hours, community development, 1,274 hours, and HMDA out of MSA, 22,517 hours; Optional reporting requirements, data

on lending by a consortium or third party, 153 hours; affiliate lending data, 304 hours; request for strategic plan approval, 550 hours; request for designation as a wholesale or limited purpose bank, 4 hours; Disclosure requirement, public file, 8,170 hours.
Total annual burden: 61,727 hours.

FDIC

Source and type of burden	Description	Estimated number of respondents	Average estimated time per response	Total estimated annual burden (hours)
345.25(b) Reporting	<i>Request for designation as a wholesale or limited purpose bank</i> —Banks requesting this designation shall file a request in writing with the FDIC at least 3 months prior to the proposed effective date of the designation.	1	4	4
345.27 Reporting	<i>Strategic plan</i> —Applies to banks electing to submit strategic plans to the FDIC for approval.	7	400	2,800
345.42(b)(1) Reporting	<i>Small business/small farm loan data</i> —Large banks shall and Small banks may report annually in machine-readable form the aggregate number and amount of certain loans.	393	8	3,144
345.42(b)(2) Reporting	<i>Community development loan data</i> —Large banks shall and Small banks may report annually, in machine-readable form, the aggregate number and aggregate amount of community development loans originated or purchased.	393	13	5,109
345.42(b)(3) Reporting	<i>Home mortgage loans</i> —Large banks, if subject to reporting under part 1003 (Home Mortgage Disclosure (HMDA)), shall, and Small banks may report the location of each home mortgage loan application, origination, or purchase outside the MSA in which the bank has a home/branch office.	393	253	99,429
345.42(d) Reporting	<i>Data on affiliate lending</i> —Banks that elect to have the FDIC consider loans by an affiliate, for purposes of the lending or community development test or an approved strategic plan, shall collect, maintain and report the data that the bank would have collected, maintained, and reported pursuant to §345.42(a), (b), and (c) had the loans been originated or purchased by the bank. For home mortgage loans, the bank shall also be prepared to identify the home mortgage loans reported under HMDA.	200	38	7,600
345.42(e) Reporting	<i>Data on lending by a consortium or a third party</i> —Banks that elect to have the FDIC consider community development loans by a consortium or a third party, for purposes of the lending or community development tests or an approved strategic plan, shall report for those loans the data that the bank would have reported under §345.42(b)(2) had the loans been originated or purchased by the bank.	75	17	1,275
345.42(g) Reporting	<i>Assessment area data</i> —Large banks shall and Small banks may collect and report to the FDIC a list for each assessment area showing the geographies within the area.	393	2	786
Total Reporting				120,147
345.42(a) Recordkeeping	<i>Small business/small farm loan register</i> —Large banks shall and Small banks may collect and maintain certain data in machine-readable form.	393	219	86,067
345.42(c) Recordkeeping	<i>Optional consumer loan data</i> —All banks may collect and maintain in machine-readable form certain data for consumer loans originated or purchased by a bank for consideration under the lending test.	75	326	24,450
345.42(c)(2) Recordkeeping	<i>Other loan data</i> —All banks optionally may provide other information concerning their lending performance, including additional loan distribution data.	100	25	2,500
Total Recordkeeping				113,017
345.41(a) 345.43(a); (a)(1); (a)(2); (a)(3); (a)(4); (a)(5); (a)(6); (a)(7); (b)(1); (b)(2); (b)(3); (b)(4); (b)(5); (c); (d) Disclosure.	<i>Content and availability of public file</i> —All banks shall maintain a public file that contains certain required information.	3,971	10	39,710
Total Disclosure				39,710
Total Estimated Annual Burden				272,874

Unfunded Mandates Reform Act of 1995

The OCC analyzed the final rule under the factors set forth in the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532). Under this analysis, the OCC considered whether the final rule includes a Federal mandate that may result in the expenditure by State, local, and Tribal

governments, in the aggregate, or by the private sector, of \$100 million or more in any one year (adjusted for inflation). The final rule does not impose new requirements or include new mandates. Therefore, the OCC has concluded that implementation of the final rule would not result in expenditures by State, local, and Tribal governments, or the private sector, of \$100 million or more

in any one year.²⁵ Accordingly, the OCC has not prepared the written statement described in section 202 of the UMRA.

²⁵ The OCC anticipates that the final rule would not impose costs on any OCC-supervised financial institutions since the rule does not impose new requirements or include new mandates. Any burden that may be associated with changes made to Regulation C HMDA reporting is a result of Bureau rulemakings.

Plain Language

Section 722 of the Gramm-Leach-Bliley Act requires the Agencies to use plain language in all proposed and final rules published after January 1, 2000. The Agencies received no comments on these matters and believe that the final rule is written plainly and clearly.

List of Subjects

12 CFR Part 25

Community development, Credit, Investments, National banks, Reporting and recordkeeping requirements.

12 CFR Part 195

Community development, Credit, Investments, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 228

Banks, Banking, Community development, Credit, Investments, Reporting and recordkeeping requirements.

12 CFR Part 345

Banks, Banking, Community development, Credit, Investments, Reporting and recordkeeping requirements.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Chapter I

Authority and Issuance

For the reasons discussed in the SUPPLEMENTARY INFORMATION section, the Office of the Comptroller of the Currency amends 12 CFR parts 25 and 195 as follows:

PART 25—COMMUNITY REINVESTMENT ACT AND INTERSTATE DEPOSIT PRODUCTION REGULATIONS

■ 1. The authority citation for part 25 continues to read as follows:

Authority: 12 U.S.C. 21, 22, 26, 27, 30, 36, 93a, 161, 215, 215a, 481, 1814, 1816, 1828(c), 1835a, 2901 through 2908, and 3101 through 3111.

§ 25.12 [Amended]

■ 2. Section 25.12 is amended:

- a. By adding “or” at the end of paragraph (g)(3);
■ b. By removing “; or” at the end of paragraph (g)(4)(iii)(B) and adding a period in its place;
■ c. By removing paragraph (g)(5);
■ d. In paragraph (h)(2)(i), by removing the phrase “unless it is a multifamily dwelling loan (as described in appendix

A to part 1003 of this title)” and adding in its place the phrase “unless the loan is for a multifamily dwelling (as defined in § 1003.2(n) of this title)”;

■ e. By removing paragraph (j)(3) and redesignating paragraphs (j)(4) and (5) as paragraphs (j)(3) and (4); and

■ f. In paragraph (l), by removing the phrase “‘home improvement loan,’ ‘home purchase loan,’ or a ‘refinancing’ as defined in § 1003.2 of this title” and adding in its place the phrase “closed-end mortgage loan or an open-end line of credit as these terms are defined under § 1003.2 of this title, and that is not an excluded transaction under § 1003.3(c)(1) through (10) and (13) of this title”.

§ 25.22 [Amended]

■ 3. Section 25.22 is amended in paragraph (a)(1) by removing the phrase “home equity,”.

§ 25.42 [Amended]

■ 4. Section 25.42 is amended in paragraph (c)(1) introductory text by removing the phrase “home equity,”.

■ 5. Section 25.43 is amended by revising paragraph (b)(2) to read as follows:

§ 25.43 Content and availability of public file.

* * * * *

(b) * * *

(2) Banks required to report Home Mortgage Disclosure Act (HMDA) data. A bank required to report home mortgage loan data pursuant part 1003 of this title shall include in its public file a written notice that the institution’s HMDA Disclosure Statement may be obtained on the Consumer Financial Protection Bureau’s (Bureau’s) Web site at www.consumerfinance.gov/hmda. In addition, a bank that elected to have the OCC consider the mortgage lending of an affiliate shall include in its public file the name of the affiliate and a written notice that the affiliate’s HMDA Disclosure Statement may be obtained at the Bureau’s Web site. The bank shall place the written notice(s) in the public file within three business days after receiving notification from the Federal Financial Institutions Examination Council of the availability of the disclosure statement(s).

* * * * *

PART 195—COMMUNITY REINVESTMENT

■ 6. The authority citation for part 195 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464, 1814, 1816, 1828(c), 2901 through 2908, and 5412(b)(2)(B).

§ 195.12 [Amended]

■ 7. Section 195.12 is amended:

- a. By adding “or” at the end of paragraph (g)(3);
■ b. By removing “; or” at the end of paragraph (g)(4)(iii)(B) and adding a period in its place;
■ c. By removing paragraph (g)(5);
■ d. In paragraph (h)(2)(i), by removing the phrase “unless it is a multifamily dwelling loan (as described in appendix A to part 1003 of this title)” and adding in its place the phrase “unless the loan is for a multifamily dwelling (as defined in § 1003.2(n) of this title)”;

§ 195.22 [Amended]

■ 8. Section 195.22 is amended in paragraph (a)(1) by removing the phrase “home equity,”.

§ 195.42 [Amended]

■ 9. Section 195.42 is amended in paragraph (c)(1) introductory text by removing the phrase “home equity,”.

■ 10. Section 195.43 is amended by revising paragraph (b)(2) to read as follows:

§ 195.43 Content and availability of public file.

* * * * *

(b) * * *

(2) Savings associations required to report Home Mortgage Disclosure Act (HMDA) data. A savings association required to report home mortgage loan data pursuant part 1003 of this title shall include in its public file a written notice that the institution’s HMDA Disclosure Statement may be obtained on the Consumer Financial Protection Bureau’s (Bureau’s) Web site at www.consumerfinance.gov/hmda. In addition, a savings association that elected to have the appropriate Federal banking agency consider the mortgage lending of an affiliate shall include in its public file the name of the affiliate and a written notice that the affiliate’s HMDA Disclosure Statement may be obtained at the Bureau’s Web site. The savings association shall place the written notice(s) in the public file

within three business days after receiving notification from the Federal Financial Institutions Examination Council of the availability of the disclosure statement(s).

* * * * *

Federal Reserve System

12 CFR Chapter II

Authority and Issuance

For the reasons discussed in the **SUPPLEMENTARY INFORMATION** section, the Board of Governors of the Federal Reserve System amends part 228 of chapter II of title 12 of the Code of Federal Regulations as follows:

PART 228—COMMUNITY REINVESTMENT (REGULATION BB)

■ 11. The authority citation for part 228 continues to read as follows:

Authority: 12 U.S.C. 321, 325, 1828(c), 1842, 1843, 1844, and 2901 through 2908.

§ 228.12 [Amended]

■ 12. Section 228.12 is amended:

- a. By adding “or” at the end of paragraph (g)(3);
- b. By removing “; or” at the end of (g)(4)(iii)(B) and adding a period in its place;
- c. By removing paragraph (g)(5);
- d. In paragraph (h)(2)(i), by removing the phrase “unless it is a multifamily dwelling loan (as described in appendix A to part 1003 of this chapter)” and adding in its place the phrase “unless the loan is for a multifamily dwelling (as defined in § 1003.2(n) of this title)”;
- e. By removing paragraph (j)(3) and redesignating paragraphs (j)(4) and (5) as paragraphs (j)(3) and (4); and
- f. In paragraph (l), by removing the phrase “‘home improvement loan,’ ‘home purchase loan,’ or a ‘refinancing’ as defined in § 1003.2 of this title” and adding in its place the phrase, “closed-end mortgage loan or an open-end line of credit as these terms are defined under § 1003.2 of this title and that is not an excluded transaction under § 1003.3(c)(1) through (10) and (13) of this title”.

§ 228.22 [Amended]

■ 13. Section 228.22 is amended in paragraph (a)(1) by removing the phrase “home equity,”.

§ 228.42 [Amended]

- 14. Section 228.42 is amended in paragraph (c)(1) introductory text by removing the phrase “home equity,”.
- 15. Section 228.43 is amended by revising paragraph (b)(2) to read as follows:

§ 228.43 Content and availability of public file.

* * * * *

(b) * * *

(2) *Banks required to report Home Mortgage Disclosure Act (HMDA) data.* A bank required to report home mortgage loan data pursuant part 1003 of this title shall include in its public file a written notice that the institution’s HMDA Disclosure Statement may be obtained on the Consumer Financial Protection Bureau’s (Bureau’s) Web site at www.consumerfinance.gov/hmda. In addition, a bank that elected to have the Board consider the mortgage lending of an affiliate shall include in its public file the name of the affiliate and a written notice that the affiliate’s HMDA Disclosure Statement may be obtained at the Bureau’s Web site. The bank shall place the written notice(s) in the public file within three business days after receiving notification from the Federal Financial Institutions Examination Council of the availability of the disclosure statement(s).

* * * * *

Federal Deposit Insurance Corporation

12 CFR Chapter III

Authority and Issuance

For the reasons discussed in the **SUPPLEMENTARY INFORMATION** section, the Board of Directors of the Federal Deposit Insurance Corporation amends part 345 of chapter III of title 12 of the Code of Federal Regulations to read as follows:

PART 345—COMMUNITY REINVESTMENT

■ 16. The authority citation for part 345 continues to read as follows:

Authority: 12 U.S.C. 1814–1817, 1819–1820, 1828, 1831u and 2901–2908, 3103–3104, and 3108(a).

§ 345.12 [Amended]

- 17. Section 345.12 is amended:
 - a. By adding “or” at the end of paragraph (g)(3);
 - b. By removing “; or” at the end of (g)(4)(iii)(B) and adding a period in its place;
 - c. By removing paragraph (g)(5);
 - d. In paragraph (h)(2)(i), by removing the phrase “unless it is a multifamily dwelling loan (as described in appendix A to part 1003 of this title)” and adding in its place the phrase “unless the loan is for a multifamily dwelling (as defined in § 1003.2(n) of this title)”;
 - e. By removing paragraph (j)(3) and redesignating paragraphs (j)(4) and (5) as paragraphs (j)(3) and (5); and
 - f. In paragraph (l), by removing the phrase “‘home improvement loan,’

‘home purchase loan,’ or a ‘refinancing’ as defined in § 1003.2 of this title” and adding in its place the phrase “closed-end mortgage loan or an open-end line of credit as these terms are defined under § 1003.2 of this title and that is not an excluded transaction under § 1003.3(c)(1) through (10) and (13) of this title”.

§ 345.22 [Amended]

■ 18. Section 345.22 is amended in paragraph (a)(1) by removing the phrase “home equity,”.

§ 345.42 [Amended]

■ 19. Section 345.42 is amended in paragraph (c)(1) introductory text by removing the phrase “home equity,”.

■ 20. Section 345.43 is amended by revising paragraph (b)(2) to read as follows:

§ 345.43 Content and availability of public file.

* * * * *

(b) * * *

(2) *Banks required to report Home Mortgage Disclosure Act (HMDA) data.* A bank required to report home mortgage loan data pursuant part 1003 of this title shall include in its public file a written notice that the institution’s HMDA Disclosure Statement may be obtained on the Consumer Financial Protection Bureau’s (Bureau’s) Web site at www.consumerfinance.gov/hmda. In addition, a bank that elected to have the FDIC consider the mortgage lending of an affiliate shall include in its public file the name of the affiliate and a written notice that the affiliate’s HMDA Disclosure Statement may be obtained at the Bureau’s Web site. The bank shall place the written notice(s) in the public file within three business days after receiving notification from the Federal Financial Institutions Examination Council of the availability of the disclosure statement(s).

* * * * *

Dated: November 14, 2017.

Keith A. Noreika,

Acting Comptroller of the Currency.

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

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

Dated at Washington, DC, this 14th of November, 2017.

By order of the Board of Directors.
Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–25396 Filed 11–22–17; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P

FINANCIAL STABILITY OVERSIGHT COUNCIL

12 CFR Part 1301

Freedom of Information Act Regulations

AGENCY: Financial Stability Oversight Council.

ACTION: Final rule.

SUMMARY: This rule makes revisions to the regulations of the Financial Stability Oversight Council (the “Council”) under the Freedom of Information Act (“FOIA”) as required by the FOIA Improvement Act of 2016.

DATES: *Effective date:* December 26, 2017.

FOR FURTHER INFORMATION CONTACT: Eric A. Froman, Executive Director, Financial Stability Oversight Council, U.S. Treasury Department, (202) 622–1942; Stephen T. Milligan, Attorney-Advisor, U.S. Treasury Department, (202) 622–4051.

SUPPLEMENTARY INFORMATION: On June 30, 2016, the President signed into law the FOIA Improvement Act of 2016, Public Law 114–185, 130 Stat. 538 (2016). On November 17, 2016, the Council adopted an interim final rule implementing changes mandated by the statute.¹ The Council found that good cause existed, pursuant to 5 U.S.C. 553(b), that notice and public comment on the rulemaking would be unnecessary and contrary to the public interest because the revisions to the Council’s FOIA regulations were limited to those mandated by the FOIA Improvement Act of 2016 and the Council was not exercising any discretion in issuing these revisions. While the interim final rule was effective immediately upon publication, the Council invited public comment on the interim final rule during a sixty-day period and stated it would consider all comments received.

After further consideration of the rule, and in order to clarify certain provisions and reflect developments in case law, the Council is making certain changes in issuing this final rule. The final rule revises sections 1301.12(c)(2)(ii) and 1301.12(d)(2) to conform to a recent decision of the U.S. Court of Appeals for the District of Columbia Circuit addressing the “educational institution” fee category. See *Sack v. Dept. of Defense*, 823 F.3d 687 (D.C. Cir. 2016). Specifically, the definition of “educational institution” is revised to reflect the holding in *Sack* that students who make FOIA requests in furtherance

of their coursework or other school-sponsored activities may qualify under this requester category, and the requirement that such a requester show that the request is made under the auspices of the educational institution is replaced with a requirement that the requester show that the request is made in connection with the requester’s role at the educational institution.

In addition, the rule revises section 1301.11(b) to provide that an appeal of a denial of expedited processing must be made within ninety days of the date of the initial determination to deny expedited processing, rather than within ten days as was provided in the interim final rule, in order to conform this provision to the FOIA Improvement Act of 2016. The rule also revises section 1301.12(e) to clarify that, in conformance with FOIA, the Council may charge duplication fees to educational or noncommercial scientific institution requesters or representatives of the news media unless it fails to comply with the applicable administrative time limits in the circumstances outlined in that section. Finally, the rule eliminates section 1301.12(g)(5), regarding the treatment of administrative time limits in certain circumstances because sections 1301.7(d) and 1301.12(g)(1)–(4) sufficiently address those circumstances.

One commenter asserted that the 15 cent per page duplication fee was too high. The Council has reassessed the duplication fee and has determined, in accordance with FOIA, that 8 cents per page reflects the direct costs of duplication. The Council has revised the fee provided for in section 1301.12(b)(1)(i) accordingly.

The Council also received a comment letter from the National Archives and Records Administration (“NARA”). NARA recommended that the Council clarify that requesters are required to be notified of the availability of dispute resolution services in the event that no records responsive to the request are located; that requirement is provided for in section 1301.8(b)(4). As requested by NARA, the Council has also added the contact information for NARA’s Office of Government Information Service to the Council’s Web site at <https://www.treasury.gov/initiatives/fsoc/Pages/Contact-Us.aspx>.

Procedural Matters

1. Regulatory Flexibility Act

Because no notice of proposed rulemaking was required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

2. Executive Order 12866

This rule is not a significant regulatory action as defined in section 3.f of Executive Order 12866.

List of Subjects in 12 CFR Part 1301

Freedom of information.

Financial Stability Oversight Council

Authority and Issuance

■ For the reasons set forth in the preamble, the Financial Stability Oversight Council revises part 1301 to 12 CFR chapter XIII to read as follows:

PART 1301—FREEDOM OF INFORMATION

Sec.

- 1301.1 General.
- 1301.2 Information made available.
- 1301.3 Publication in the Federal Register.
- 1301.4 Public inspection.
- 1301.5 Requests for Council records.
- 1301.6 Responsibility for responding to requests for Council records.
- 1301.7 Timing of responses to requests for Council records.
- 1301.8 Responses to requests for Council records.
- 1301.9 Classified information.
- 1301.10 Requests for business information provided to the Council.
- 1301.11 Administrative appeals and dispute resolution.
- 1301.12 Fees for processing requests for Council records.

Authority: 12 U.S.C. 5322; 5 U.S.C. 552.

§ 1301.1 General.

This subpart contains the regulations of the Financial Stability Oversight Council (the “Council”) implementing the Freedom of Information Act (“FOIA”), 5 U.S.C. 552, as amended. These regulations set forth procedures for requesting access to records maintained by the Council. These regulations should be read together with the FOIA, which provides additional information about this topic.

§ 1301.2 Information made available.

(a) *General.* The FOIA provides for access to records developed or maintained by a Federal agency. The provisions of the FOIA are intended to assure the right of the public to information. Generally, this section divides agency records into three major categories and provides methods by which each category of records is to be made available to the public. The three major categories of records are as follows:

- (1) Information required to be published in the **Federal Register** (see § 1301.3);
- (2) Information required to be made available for public inspection in an

¹ 81 FR 85402 (Nov. 28, 2016).

electronic format or, in the alternative, to be published and offered for sale (see § 1301.4); and

(3) Information required to be made available to any member of the public upon specific request (see §§ 1301.5 through 1301.12).

(b) *Right of access.* Subject to the exemptions and exclusions set forth in the FOIA (5 U.S.C. 552(b) and (c)), and the regulations set forth in this subpart, any person shall be afforded access to records.

(c) *Exemptions.* (1) The disclosure requirements of 5 U.S.C. 552(a) do not apply to certain records which are exempt under 5 U.S.C. 552(b); nor do the disclosure requirements apply to certain records which are excluded under 5 U.S.C. 552(c).

(2) The Council shall withhold records or information under the FOIA only when it reasonably foresees that disclosure would harm an interest protected by a FOIA exemption or when disclosure is prohibited by law. Whenever the Council determines that full disclosure of a requested record is not possible, the Council shall consider whether partial disclosure is possible and shall take reasonable steps to segregate and release nonexempt information. Nothing in this paragraph requires disclosure of information that is otherwise exempted from disclosure under 12 U.S.C. 552(b)(3).

§ 1301.3 Publication in the Federal Register.

Subject to the application of the FOIA exemptions and exclusions (5 U.S.C. 552(b) and (c)) and subject to the limitations provided in 5 U.S.C. 552(a)(1), the Council shall state, publish and maintain current in the **Federal Register** for the guidance of the public:

(a) Descriptions of its central and field organization and the established places at which, the persons from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(b) Statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(c) Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(d) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability

formulated and adopted by the Council; and

(e) Each amendment, revision, or repeal of matters referred to in paragraphs (a) through (d) of this section.

§ 1301.4 Public inspection.

(a) *In general.* Subject to the application of the FOIA exemptions and exclusions (5 U.S.C. 552(b) and (c)), the Council shall, in conformance with 5 U.S.C. 552(a)(2), make available for public inspection in an electronic format, or, in the alternative, promptly publish and offer for sale:

(1) Final opinions, including concurring and dissenting opinions, and orders, made in the adjudication of cases;

(2) Those statements of policy and interpretations which have been adopted by the Council but which are not published in the **Federal Register**;

(3) Its administrative staff manuals and instructions to staff that affect a member of the public;

(4) Copies of all records, regardless of form or format, that have been released previously to any person under 5 U.S.C. 552(a)(3) and §§ 1301.5 through 1301.12, and that the Council determines have become or are likely to become the subject of subsequent requests for substantially the same records. When the Council receives three (3) or more requests for substantially the same records, then the Council shall place those requests in front of any existing processing backlog and make the released records available in the Council's public reading room and in the electronic reading room on the Council's Web site.

(5) A general index of the records referred to in paragraph (a)(4) of this section.

(b) *Information made available online.* For records required to be made available for public inspection in an electronic format pursuant to 5 U.S.C. 552(a)(2) and paragraphs (a)(1) through (4) of this section, the Council shall make such records available on its Web site as soon as practicable but in any case no later than one year after such records are created.

(c) *Redaction.* Based upon applicable exemptions in 5 U.S.C. 552(b), the Council may redact certain information contained in any matter described in paragraphs (a)(1) through (4) of this section before making such information available for inspection or publishing it. The justification for the redaction shall be explained in writing, and the extent of such redaction shall be indicated on the portion of the record which is made available or published, unless including

that indication would harm an interest protected by the exemption in 5 U.S.C. 552(b) under which the redaction is made. If technically feasible, the extent of the redaction shall be indicated at the place in the record where the redaction was made.

(d) *Public reading room.* The Council shall make available for public inspection in an electronic format, in a reading room or otherwise, the material described in paragraphs (a)(1) through (5) of this section. Fees for duplication shall be charged in accordance with § 1301.12. The location of the Council's reading room is the Department of the Treasury's Library. The Library is located in the Freedman's Bank Building (formerly the Treasury Annex), Room 1020, 1500 Pennsylvania Avenue NW., Washington, DC 20220. For building security purposes, visitors are required to make an appointment by calling (202) 622-0990.

(e) *Indices.* (1) The Council shall maintain and make available for public inspection in an electronic format current indices identifying any material described in paragraphs (a)(1) through (3) of this section. In addition, the Council shall promptly publish, quarterly or more frequently, and distribute (by sale or otherwise) copies of each index or supplement unless the Council determines by order published in the **Federal Register** that the publication would be unnecessary and impractical, in which case the Council shall nonetheless provide copies of the index on request at a cost not to exceed the direct cost of duplication.

(2) The Council shall make the indices referred to in paragraphs (a)(5) and (e)(1) of this section available on its Web site.

§ 1301.5 Requests for Council records.

(a) *In general.* Except for records made available under 5 U.S.C. 552(a)(1) and (a)(2) and subject to the application of the FOIA exemptions and exclusions (5 U.S.C. 552(b) and (c)), the Council shall promptly make its records available to any person pursuant to a request that conforms to the rules and procedures of this section.

(b) *Form and content of request.* A request for records of the Council shall be made as follows:

(1) The request for records shall be made in writing and submitted by mail or via the Internet and should state, both in the request itself and on any envelope that encloses it, that it comprises a FOIA request. A request that does not explicitly state that it is a FOIA request, but clearly indicates or implies that it is a request for records, may also be processed under the FOIA.

(2) If a request is sent by mail, it shall be addressed and submitted as follows: FOIA Request—Financial Stability Oversight Council, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington DC 20220. If a request is made via the Internet, it shall be submitted as set forth on the Council's Web site.

(3) In order to ensure the Council's ability to respond in a timely manner, a FOIA request must describe the records that the requester seeks in sufficient detail to enable Council personnel to locate them with a reasonable amount of effort. Whenever possible, the request must include specific information about each record sought, such as the date, title or name, author, recipient, and subject matter of the record. If known, the requester must include any file designations or descriptions for the records requested. In general, a requester is encouraged to provide more specific information about the records or types of records sought to increase the likelihood that responsive records can be located.

(4) The request shall include the name of and contact information for the requester, including a mailing address, telephone number, and, if available, an email address at which the Council may contact the requester regarding the request.

(5) For the purpose of determining any fees that may apply to processing a request, a requester shall indicate in the request whether the requester is a commercial user, an educational institution, non-commercial scientific institution, representative of the news media, or "other" requester, as those terms are defined in § 1301.12(c), or in the alternative, state how the records released will be used. The Council shall use this information solely for the purpose of determining the appropriate fee category that applies to the requester and shall not use this information to determine whether to disclose a record in response to the request.

(6) If a requester seeks a waiver or reduction of fees associated with processing a request, then the request shall include a statement to that effect, pursuant to § 1301.12(f). Any request that does not seek a waiver or reduction of fees shall constitute an agreement of the requester to pay any and all fees (of up to \$25) that may apply to the request, unless or until a request for waiver is sought and granted. The requester also may specify in the request an upper limit (of not less than \$25) that the requester is willing to pay to process the request.

(i) Any request for waiver or reduction of fees should be filed

together with or as part of the FOIA request, or at a later time prior to the Council incurring costs to process the request.

(ii) A waiver request submitted after the Council incurs costs will be considered in accordance with § 1301.12(f); however, the requester must agree in writing to pay the fees already incurred if the waiver is denied.

(7) If a requester seeks expedited processing of a request, then the request must include a statement to that effect as is required by § 1301.7(c).

(c) *Request receipt; effect of request deficiencies.* The Council shall deem itself to have received a request on the date that it receives a complete request containing the information required by paragraph (b) of this section. The Council need not accept a request, process a request, or be bound by any deadlines in this subpart for processing a request that fails materially to conform to the requirements of paragraph (b) of this section. If the Council determines that it cannot process a request because the request is deficient, then the Council shall return it to the requester and advise the requester in what respect the request is deficient. The requester may then resubmit the request, which the Council shall treat as a new request. A determination by the Council that a request is deficient in any respect is not a denial of a request for records, and such determinations are not subject to appeal.

(d) *Processing of request containing technical deficiency.* Notwithstanding paragraph (c) of this section, the Council shall not reject a request solely due to one or more technical deficiencies contained in the request. For the purposes of this paragraph, the term "technical deficiency" means an error or omission with respect to an item of information required by paragraph (b) of this section which, by itself, does not prevent that part of the request from conforming to the applicable requirement, and includes without limitation a non-material error relating to the contact information for the requester, or similar error or omission regarding the date, title or name, author, recipient, or subject matter of the record requested.

§ 1301.6 Responsibility for responding to requests for Council records.

(a) *In general.* In determining which records are responsive to a request, the Council ordinarily will include only information contained in records that the Council maintains, or are in its possession and control, as of the date the Council begins its search for responsive records. If any other date is

used, the Council shall inform the requester of that date.

(b) *Authority to grant or deny requests.* The records officer shall be authorized to make an initial determination to grant or deny, in whole or in part, a request for a record.

(c) *Referrals.* When the Council receives a request for a record or any portion of a record in its possession that originated with another agency, including but not limited to a constituent agency of the Council, it shall:

(1) In the case of a record originated by a federal agency subject to the FOIA, refer the responsibility for responding to the request regarding that record to the originating agency to determine whether to disclose it; and

(2) In the case of a record originated by a state agency, respond to the request after giving notice to the originating state agency and a reasonable opportunity to provide input or to assert any applicable privileges.

(d) *Notice of referral.* Whenever the Council refers all or any part of the responsibility for responding to a request to another agency, the Council shall notify the requester of the referral and inform the requester of the name of each agency to which the request has been referred and of the part of the request that has been referred.

§ 1301.7 Timing of responses to requests for Council records.

(a) *In general.* Except as set forth in paragraphs (b) through (d) of this section, the Council shall respond to requests according to their order of receipt.

(b) *Multitrack processing.* (1) The Council may establish tracks to process separately simple and complex requests. The Council may assign a request to the simple or complex track based on the amount of work and/or time needed to process the request. The Council shall process requests in each track according to the order of their receipt.

(2) The Council may provide a requester in its complex track with an opportunity to limit the scope of the request to qualify for faster processing within the specified limits of the simple track(s).

(c) *Requests for expedited processing.* (1) The Council shall respond to a request out of order and on an expedited basis whenever a requester demonstrates a compelling need for expedited processing in accordance with the requirements of this paragraph (c).

(2) *Form and content of a request for expedited processing.* A request for

expedited processing shall be made as follows:

(i) A request for expedited processing shall be made in writing or via the Internet and submitted as part of the initial request for records. When a request for records includes a request for expedited processing, both the envelope and the request itself must be clearly marked "Expedited Processing Requested." A request for expedited processing that is not clearly so marked, but satisfies the requirements in paragraphs (c)(2)(ii) and (iii) of this section, may nevertheless be granted.

(ii) A request for expedited processing shall contain a statement that demonstrates a compelling need for the requester to obtain expedited processing of the requested records. A "compelling need" may be established under the standard in either paragraph (c)(2)(ii)(A) or (B) of this section by demonstrating that:

(A) Failure to obtain the requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual. The requester shall fully explain the circumstances warranting such an expected threat so that the Council may make a reasoned determination that a delay in obtaining the requested records would pose such a threat; or

(B) With respect to a request made by a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal Government activity. A person "primarily engaged in disseminating information" does not include individuals who are engaged only incidentally in the dissemination of information. The standard of "urgency to inform" requires that the records requested pertain to a matter of current exigency to the American general public and that delaying a response to a request for records would compromise a significant recognized interest to and throughout the American general public. The requester must adequately explain the matter or activity and why the records sought are necessary to be provided on an expedited basis.

(iii) The requester shall certify the written statement that purports to demonstrate a compelling need for expedited processing to be true and correct to the best of the requester's knowledge and belief. The certification must be in the form prescribed by 28 U.S.C. 1746: "I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief. Executed on [date]."

(3) *Determinations of requests for expedited processing.* Within ten (10) calendar days of its receipt of a request for expedited processing, the Council shall decide whether to grant the request and shall notify the requester of the determination in writing.

(4) *Effect of granting expedited processing.* If the Council grants a request for expedited processing, then the Council shall give the expedited request priority over non-expedited requests and shall process the expedited request as soon as practicable. The Council may assign expedited requests to their own simple and complex processing tracks based upon the amount of work and/or time needed to process them. Within each such track, an expedited request shall be processed in the order of its receipt.

(5) *Appeals of denials of requests for expedited processing.* If the Council denies a request for expedited processing, then the requester shall have the right to submit an appeal of the denial determination in accordance with § 1301.11. The Council shall communicate this appeal right as part of its written notification to the requester denying expedited processing. The requester shall clearly mark its appeal request and any envelope that encloses it with the words "Appeal for Expedited Processing."

(d) *Time period for responding to requests for records.* Ordinarily, the Council shall have twenty (20) days (excepting Saturdays, Sundays, and legal public holidays) from when a request that satisfies the requirements of § 1301.5(b) is received by the Council to determine whether to grant or deny a request for records. The twenty-day time period set forth in this paragraph shall not be tolled by the Council except that the Council may:

(1) Make one reasonable demand to the requester for clarifying information about the request and toll the twenty-day time period while it awaits the clarifying information; or

(2) Toll the twenty-day time period while awaiting receipt of the requester's response to the Council's request for clarification regarding the assessment of fees.

(e) *Unusual circumstances*—(1) *In general.* Except as provided in paragraph (e)(2) of this section, if the Council determines that, due to unusual circumstances, it cannot respond either to a request within the time period set forth in paragraph (d) of this section or to an appeal within the time period set forth in § 1301.11, the Council may extend the applicable time periods by informing the requester in writing of the unusual circumstances and of the date

by which the Council expects to complete its processing of the request or appeal. Any extension or extensions of time shall not cumulatively total more than ten (10) days (exclusive of Saturdays, Sundays, and legal public holidays).

(2) *Additional time.* If the Council determines that it needs additional time beyond a ten-day extension to process the request or appeal, then the Council shall notify the requester and provide the requester with an opportunity to limit the scope of the request or appeal or to arrange for an alternative time frame for processing the request or appeal or a modified request or appeal. The requester shall retain the right to define the desired scope of the request or appeal, as long as it meets the requirements contained in this part. To aid the requester, the Council shall make available its FOIA Public Liaison, who shall assist in defining the desired scope of the request, and shall notify the requester of the right to seek dispute resolution services from the Office of Government Information Services.

(3) As used in this paragraph (e), "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular requests:

(i) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request, or among two or more components or component offices having substantial subject matter interest therein.

(4) Where the Council reasonably believes that multiple requests submitted by a requester, or by a group of requesters acting in concert, constitute a single request that would otherwise involve unusual circumstances, and the requests involve clearly related matters, they may be aggregated. Multiple requests involving unrelated matters will not be aggregated. The Council may disaggregate and treat as separate requests a single request that has multiple unrelated components. The Council shall notify the requester if a request is disaggregated.

§ 1301.8 Responses to requests for Council records.

(a) Acknowledgement of requests.

Upon receipt of a request that meets the requirements of § 1301.5(b), the Council ordinarily shall assign to the request a unique tracking number and shall send an acknowledgement letter or email to the requester that contains the following information:

- (1) A brief description of the request;
- (2) The applicable request tracking number;
- (3) The date of receipt of the request, as determined in accordance with § 1301.5(c); and
- (4) A confirmation, with respect to any fees that may apply to the request pursuant to § 1301.12, that the requester has sought a waiver or reduction in such fees, has agreed to pay any and all applicable fees, or has specified an upper limit (of not less than \$25) that the requester is willing to pay in fees to process the request.

(b) *Initial determination to grant or deny a request*—(1) *In general.* The Council records officer (as designated in § 1301.6(b)) shall make initial determinations to grant or to deny in whole or in part requests for records.

(2) *Granting of request.* If the request is granted in full or in part, the Council shall provide the requester with a copy of the releasable records, and shall do so in the format specified by the requester to the extent that the records are readily producible by the Council in the requested format. The Council also shall send the requester a statement of the applicable fees, broken down by search, review and duplication fees, either at the time of the determination or shortly thereafter. The Council shall also advise the requester of the right to seek assistance from the FOIA Public Liaison.

(3) *Denial of requests.* If the Council determines that the request for records should be denied in whole or in part, the Council shall notify the requester in writing. The notification shall:

- (i) State the exemptions relied on in not granting the request;
- (ii) If technically feasible, indicate the volume of information redacted (including the number of pages withheld in part and in full) and the exemptions under which the redaction is made at the place in the record where such redaction is made (unless providing such indication would harm an interest protected by the exemption relied upon to deny such material);
- (iii) Set forth the name and title or position of the responsible official;
- (iv) Advise the requester of the right to administrative appeal in accordance with § 1301.11 and specify the official

or office to which such appeal shall be submitted; and

(v) Advise the requester of the right to seek assistance from the FOIA Public Liaison or seek dispute resolution services offered by the Office of Government Information Services.

(4) *No records found.* If it is determined, after an adequate search for records by the responsible official or his/her delegate, that no records could be located, the Council shall so notify the requester in writing. The notification letter shall advise the requester of the right to seek assistance from the FOIA Public Liaison, seek dispute resolution services offered by the Office of Government Information Services, and administratively appeal the Council's determination that no records could be located (*i.e.*, to challenge the adequacy of the Council's search for responsive records) in accordance with § 1301.11. The response shall specify the official to whom the appeal shall be submitted for review.

§ 1301.9 Classified information.

(a) *Referrals of requests for classified information.* Whenever a request is made for a record containing information that has been classified, or may be appropriate for classification, by another agency under Executive Order 13526 or any other executive order concerning the classification of records, the Council shall refer the responsibility for responding to the request regarding that information to the agency that classified the information, should consider the information for classification, or has the primary interest in it, as appropriate. Whenever a record contains information that has been derivatively classified by the Council because it contains information classified by another agency, the Council shall refer the responsibility for responding to the request regarding that information to the agency that classified the underlying information or shall consult with that agency prior to processing the record for disclosure or withholding.

(b) *Determination of continuing need for classification of information.* Requests for information classified pursuant to Executive Order 13526 require the Council to review the information to determine whether it continues to warrant classification. Information which no longer warrants classification under the Executive Order's criteria shall be declassified and made available to the requester, unless the information is otherwise exempt from disclosure.

§ 1301.10 Requests for business information provided to the Council.

(a) *In general.* Business information provided to the Council by a submitter shall not be disclosed pursuant to a FOIA request except in accordance with this section.

(b) *Definitions.* For purposes of this section:

(1) *Business information* means information from a submitter that is trade secrets or other commercial or financial information that may be protected from disclosure under Exemption 4.

(2) *Submitter* means any person or entity from whom the Council obtains business information, directly or indirectly. The term includes corporations, state, local, and tribal governments, and foreign governments.

(3) *Exemption 4* means Exemption 4 of the FOIA, 5 U.S.C. 552(b)(4).

(c) *Designation of business information.* A submitter of business information shall use good-faith efforts to designate, by appropriate markings, either at the time of submission or at a reasonable time thereafter, any portions of its submission that it considers to be protected from disclosure under Exemption 4. These designations will expire ten (10) years after the date of the submission unless the submitter on his or her own initiative requests otherwise, and provides justification for, a longer designation period.

(d) *Notice to submitters.* The Council shall provide a submitter with prompt written notice of receipt of a request or appeal encompassing the business information of the submitter whenever required in accordance with paragraph (e) of this section. Such written notice shall either describe the exact nature of the business information requested or provide copies of the records or portions of records containing the business information. When a voluminous number of submitters must be notified, the Council may post or publish such notice in a place reasonably likely to accomplish such notification.

(e) *When notice is required.* The Council shall provide a submitter with notice of receipt of a request or appeal whenever:

- (1) The information has been designated in good faith by the submitter as information considered protected from disclosure under Exemption 4; or
- (2) The Council has reason to believe that the information may be protected from disclosure under Exemption 4 because disclosure could reasonably be expected to cause substantial competitive harm to the submitter.

(f) *Opportunity to object to disclosure.*

(1) Through the notice described in paragraph (d) of this section, the Council shall notify the submitter in writing that the submitter shall have ten (10) days from the date of the notice (exclusive of Saturdays, Sundays, and legal public holidays) to provide the Council with a detailed statement of any objection to disclosure. Such statement shall specify all grounds for withholding any of the information under Exemption 4, including a statement of why the information is considered to be a trade secret or commercial or financial information that is privileged or confidential. In the event that the submitter fails to respond to the notice within the time specified, the submitter shall be considered to have no objection to disclosure of the information. Information provided by a submitter pursuant to this paragraph (f) may itself be subject to disclosure under the FOIA.

(2) When notice is given to a submitter under this section, the Council shall advise the requester that such notice has been given to the submitter. The requester shall be further advised that a delay in responding to the request may be considered a denial of access to records and that the requester may proceed with an administrative appeal or seek judicial review, if appropriate. However, the Council shall invite the requester to agree to an extension of time so that the Council may review the submitter's objection to disclosure.

(g) *Notice of intent to disclose.* The Council shall consider carefully a submitter's objections and specific grounds for nondisclosure prior to determining whether to disclose business information responsive to the request. If the Council decides to disclose business information over the objection of a submitter, the Council shall provide the submitter with a written notice which shall include:

(1) A statement of the reasons for which the submitter's disclosure objections were not sustained;

(2) A description of the business information to be disclosed; and

(3) A specified disclosure date which is not less than ten (10) days (exclusive of Saturdays, Sundays, and legal public holidays) after the notice of the final decision to release the requested information has been provided to the submitter. Except as otherwise prohibited by law, notice of the final decision to release the requested information shall be forwarded to the requester at the same time.

(h) *Notice of FOIA lawsuit.* Whenever a requester brings suit seeking to compel

disclosure of business information covered in paragraph (c) of this section, the Council shall promptly notify the submitter.

(i) *Exception to notice requirement.*

The notice requirements of this section shall not apply if:

(1) The Council determines that the information shall not be disclosed;

(2) The information lawfully has been published or otherwise made available to the public; or

(3) Disclosure of the information is required by statute (other than the FOIA) or by a regulation issued in accordance with the requirements of Executive Order 12600 (3 CFR, 1987 Comp., p. 235).

§ 1301.11 Administrative appeals and dispute resolution.

(a) *Grounds for administrative appeals.* A requester may appeal an initial determination of the Council, including but not limited to a determination:

(1) To deny access to records in whole or in part (as provided in § 1301.8(b)(3));

(2) To assign a particular fee category to the requester (as provided in § 1301.12(c));

(3) To deny a request for a reduction or waiver of fees (as provided in § 1301.12(f)(7));

(4) That no records could be located that are responsive to the request (as provided in § 1301.8(b)(4)); or

(5) To deny a request for expedited processing (as provided in § 1301.7(c)(5)).

(b) *Time limits for filing administrative appeals.* An appeal must be submitted within ninety (90) days of the date of the initial determination or the date of the letter transmitting the last records released, whichever is later, or, in the case of an appeal of a denial of expedited processing, within ninety (90) days of the date of the initial determination to deny expedited processing (see § 1301.7).

(c) *Form and content of administrative appeals.* The appeal shall—

(1) Be made in writing or, as set forth on the Council's Web site, via the Internet;

(2) Be clearly marked on the appeal request and any envelope that encloses it with the words "Freedom of Information Act Appeal" and addressed to Financial Stability Oversight Council, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220;

(3) Set forth the name of and contact information for the requester, including a mailing address, telephone number, and, if available, an email address at

which the Council may contact the requester regarding the appeal;

(4) Specify the date of the initial request and date of the letter of initial determination, and, where possible, enclose a copy of the initial request and the initial determination being appealed; and

(5) Set forth specific grounds for the appeal.

(d) *Processing of administrative appeals.* Appeals shall be stamped with the date of their receipt by the office to which addressed, and shall be processed in the approximate order of their receipt. The receipt of the appeal shall be acknowledged by the Council and the requester advised of the date the appeal was received and the expected date of response.

(e) *Determinations to grant or deny administrative appeals.* The Chairperson of the Council or his/her designee is authorized to and shall decide whether to affirm or reverse the initial determination (in whole or in part), and shall notify the requester of this decision in writing within twenty (20) days (exclusive of Saturdays, Sundays, and legal public holidays) after the date of receipt of the appeal, unless extended pursuant to § 1301.7(e).

(1) If it is decided that the appeal is to be denied (in whole or in part) the requester shall be—

(i) Notified in writing of the denial;

(ii) Notified of the reasons for the denial, including the FOIA exemptions relied upon;

(iii) Notified of the name and title or position of the official responsible for the determination on appeal;

(iv) Provided with a statement that judicial review of the denial is available in the United States District Court for the judicial district in which the requester resides or has a principal place of business, the judicial district in which the requested records are located, or the District of Columbia in accordance with 5 U.S.C. 552(a)(4)(B); and

(v) Provided with notification that mediation services may be available to the requester as a non-exclusive alternative to litigation through the Office of Government Information Services in accordance with 5 U.S.C. 552(h)(3).

(2) If the Council grants the appeal in its entirety, the Council shall so notify the requester and promptly process the request in accordance with the decision on appeal.

(f) *Dispute resolution.* Requesters may seek dispute resolution by contacting the FOIA Public Liaison or the Office of Government Information Services as set forth on the Council's Web site.

§ 1301.12 Fees for processing requests for Council records.

(a) *In general.* The Council shall charge the requester for processing a request under the FOIA in the amounts and for the services set forth in paragraphs (b) through (d) of this section, except if a waiver or reduction of fees is granted under paragraph (f) of this section, or if, pursuant to paragraph (e)(2) of this section, the failure of the Council to comply with certain time limits precludes it from assessing certain fees. No fees shall be charged if the amount of fees incurred in processing the request is below \$25.

(b) *Fees chargeable for specific services.* The fees for services performed by the Council shall be imposed and collected as set forth in this paragraph (b).

(1) *Duplicating records.* The Council shall charge a requester fees for the cost of copying records as follows:

(i) \$0.08 per page, up to 8½ x 14", made by photocopy or similar process.

(ii) Photographs, films, and other materials—actual cost of duplication.

(iii) Other types of duplication services not mentioned above—actual cost.

(iv) Material provided to a private contractor for copying shall be charged to the requester at the actual cost charged by the private contractor.

(2) *Search services.* The Council shall charge a requester for all time spent by its employees searching for records that are responsive to a request, including page-by-page or line-by-line identification of responsive information within records, even if no responsive records are found. The Council shall charge the requester fees for search time as follows:

(i) *Searches for other than electronic records.* The Council shall charge for search time at the salary rate(s) (basic pay plus sixteen (16) percent) of the employee(s) who conduct the search. This charge shall also include transportation of employees and records at actual cost. Fees may be charged for search time even if the search does not yield any responsive records, or if records are exempt from disclosure.

(ii) *Searches for electronic records.* The Council shall charge the requester for the actual direct cost of the search, including computer search time, runs, and the operator's salary. The fee for computer output shall be the actual direct cost. For a requester in the "other" category, when the cost of the search (including the operator time and the cost of operating the computer to process a request) equals the equivalent dollar amount of two hours of the salary of the person performing the search (*i.e.*,

the operator), the charge for the computer search will begin.

(3) *Review of records.* The Council shall charge a requester for time spent by its employees examining responsive records to determine whether any portions of such record are withholdable from disclosure, pursuant to the FOIA exemptions of 5 U.S.C. 552(b). The Council shall also charge a requester for time spent by its employees redacting any such withholdable information from a record and preparing a record for release to the requester. The Council shall charge a requester for time spent reviewing records at the salary rate(s) (*i.e.*, basic pay plus sixteen (16) percent) of the employees who conduct the review. Fees may be charged for review time even if records ultimately are not disclosed.

(4) *Inspection of records in the reading room.* Fees for all services provided shall be charged whether or not copies are made available to the requester for inspection. However, no fee shall be charged for monitoring a requester's inspection of records.

(5) *Other services.* Other services and materials requested which are not covered by this part nor required by the FOIA are chargeable at the actual cost to the Council. Charges permitted under this paragraph may include:

(i) Certifying that records are true copies; and

(ii) Sending records by special methods (such as by express mail, etc.).

(c) *Fees applicable to various categories of requesters*—(1) *Generally.* The Council shall assess the fees set forth in paragraph (b) of this section in accordance with the requester fee categories set forth below.

(2) *Requester selection of fee category.* A requester shall identify, in the initial FOIA request, the purpose of the request in one of the following categories:

(i) *Commercial.* A commercial use request refers to a request from or on behalf of a person who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made, which can include furthering those interests through litigation. The Council may determine from the use specified in the request that the requester is a commercial user.

(ii) *Educational institution.* This refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, which operates a

program or programs of scholarly research. This includes a request from a teacher or student at any such institution making the request in connection with his or her role at the educational institution.

(iii) *Non-commercial scientific institution.* This refers to an institution that is not operated on a "commercial" basis, as that term is defined in paragraph (c)(2)(i) of this section, and which is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

(iv) *Representative of the news media.* This refers to any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. In this paragraph (c)(2)(iv), the term "news" means information that is about current events or that would be of current interest to the public. Examples of news-media entities are television or radio stations broadcasting to the public at large and publishers of periodicals (but only if such entities qualify as disseminators of "news") who make their products available for purchase by subscription or by free distribution to the general public. These examples are not all-inclusive. Moreover, as methods of news delivery evolve (for example, the adoption of the electronic dissemination of newspapers through telecommunications services), such alternative media shall be considered to be news media entities. A freelance journalist shall be regarded as working for a news media entity if the journalist can demonstrate a solid basis for expecting publication through that entity, whether or not the journalist is actually employed by the entity. A publication contract would present a solid basis for such an expectation; the Council may also consider the past publication record of the requester in making such a determination.

(v) *Other requester.* This refers to a requester who does not fall within any of the categories described in paragraphs (c)(2)(i)–(iv) of this section.

(d) *Fees applicable to each category of requester.* The Council shall apply the fees set forth in this paragraph, for each category described in paragraph (c) of this section, to requests processed by the Council under the FOIA.

(1) *Commercial use.* A requester seeking records for commercial use shall be charged the full direct costs of searching for, reviewing, and duplicating the records they request as set forth in paragraph (b) of this section.

Moreover, when a request is received for disclosure that is primarily in the commercial interest of the requester, the Council is not required to consider a request for a waiver or reduction of fees based upon the assertion that disclosure would be in the public interest. The Council may recover the cost of searching for and reviewing records even if there is ultimately no disclosure of records or no records are located.

(2) *Educational and non-commercial scientific uses.* A requester seeking records for educational or non-commercial scientific use shall be charged only for the cost of duplicating the records they request, except that the Council shall provide the first one hundred (100) pages of duplication free of charge. To be eligible, the requester must show that the request is made in connection with the requester's role at an educational institution or is made under the auspices of a non-commercial scientific institution and that the records are not sought for a commercial use, but are sought in furtherance of scholarly (if the request is from an educational institution) or scientific (if the request is from a non-commercial scientific institution) research.

(3) *News media uses.* A requester seeking records under the news media use category shall be charged only for the cost of duplicating the records they request, except that the Council shall provide the requester with the first one hundred (100) pages of duplication free of charge.

(4) *Other requests.* A requester seeking records for any other use shall be charged the full direct cost of searching for and duplicating records that are responsive to the request, as set forth in paragraph (b) of this section, except that the Council shall provide the first one hundred (100) pages of duplication and the first two hours of search time free of charge. The Council may recover the cost of searching for records even if there is ultimately no disclosure of records, or no records are located.

(e) *Other circumstances when fees are not charged.* (1) Notwithstanding paragraphs (b), (c), and (d) of this section, the Council may not charge a requester a fee for processing a FOIA request if—

(i) Services were performed without charge;

(ii) The cost of collecting a fee would be equal to or greater than the fee itself; or

(iii) The fees were waived or reduced in accordance with paragraph (f) of this section.

(2) Notwithstanding paragraphs (b), (c), and (d) of this section, the Council

may not charge a requester search fees or, in the case of a requester described in paragraphs (c)(2)(ii) through (iv) of this section, duplication fees if the Council fails to comply with any time limit under § 1301.7 or § 1301.11; provided that:

(i) If unusual circumstances (as that term is defined in § 1301.7(e)) apply to the processing of the request and the Council has provided a timely notice to the requester in accordance with § 1301.7(e)(1), then a failure to comply with such time limit shall be excused for an additional ten days;

(ii) If unusual circumstances (as that term is defined in § 1301.7(e)) apply to the processing of the request, more than 5,000 pages are necessary to respond to the request, the Council has provided a timely written notice to the requester in accordance with § 1301.7(e)(2), and the Council has discussed with the requester via written mail, electronic mail, or telephone (or made not less than three good-faith attempts to do so) how the requester could effectively limit the scope of the request in accordance with § 1301.7(e)(2), then the Council may charge a requester such fees; and

(iii) If a court has determined that exceptional circumstances exist, then a failure to comply with such time limit shall be excused for the length of time provided by the court order.

(f) *Waiver or reduction of fees.* (1) A requester shall be entitled to receive from the Council a waiver or reduction in the fees otherwise applicable to a FOIA request whenever the requester:

(i) Requests such waiver or reduction of fees in writing and submits the written request to the Council together with or as part of the FOIA request, or at a later time consistent with § 1301.5(b)(7) to process the request; and

(ii) Demonstrates that the fee reduction or waiver request is in the public interest because:

(A) Furnishing the information is likely to contribute significantly to public understanding of the operations or activities of the government; and

(B) Furnishing the information is not primarily in the commercial interest of the requester.

(2) To determine whether the requester has satisfied the requirements of paragraph (f)(1)(ii)(A) of this section, the Council shall consider:

(i) The subject of the requested records must concern identifiable operations or activities of the federal government, with a connection that is direct and clear, not remote or attenuated;

(ii) The disclosable portions of the requested records must be meaningfully

informative about government operations or activities in order to be “likely to contribute” to an increased public understanding of those operations or activities. The disclosure of information that already is in the public domain, in either a duplicative or a substantially identical form, would not be as likely to contribute to such understanding where nothing new would be added to the public's understanding;

(iii) The disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. A requester's expertise in the subject area and ability and intention to effectively convey information to the public shall be considered. It shall be presumed that a representative of the news media will satisfy this consideration.

(iv) The public's understanding of the subject in question, as compared to the level of public understanding existing prior to the disclosure, must be enhanced by the disclosure to a significant extent.

(3) To determine whether the requester satisfies the requirement of paragraph (f)(1)(ii)(B) of this section, the Council shall consider:

(i) Any commercial interest of the requester (with reference to the definition of “commercial use” in paragraph (c)(2)(i) of this section), or of any person on whose behalf the requester may be acting, that would be furthered by the requested disclosure. In the administrative process, a requester may provide explanatory information regarding this consideration; and

(ii) Whether the public interest is greater in magnitude than that of any identified commercial interest in disclosure. The Council ordinarily shall presume that, if a news media requester satisfies the public interest standard, the public interest will be the interest primarily served by disclosure to that requester. Disclosure to data brokers or others who merely compile and market government information for direct economic return shall not be presumed to primarily serve the public interest.

(4) Where only some of the records to be released satisfy the requirements for a waiver or reduction of fees, a waiver or reduction shall be granted for those records.

(5) *Determination of request to reduce or waive fees.* The Council shall notify the requester in writing regarding its determinations to reduce or waive fees.

(6) *Effect of denying request to reduce or waive fees.* If the Council denies a request to reduce or waive fees, then the Council shall advise the requester, in

the denial notification letter, that the requester may incur fees as a result of processing the request. In the denial notification letter, the Council shall advise the requester that the Council will not proceed to process the request further unless the requester, in writing, directs the Council to do so and either agrees to pay any fees that may apply to processing the request or specifies an upper limit (of not less than \$25) that the requester is willing to pay to process the request. If the Council does not receive this written direction and agreement/specification within thirty (30) days of the date of the denial notification letter, then the Council shall deem the FOIA request to be withdrawn.

(7) *Appeals of denials of requests to reduce or waive fees.* If the Council denies a request to reduce or waive fees, then the requester shall have the right to submit an appeal of the denial determination in accordance with § 1301.11. The Council shall communicate this appeal right as part of its written notification to the requester denying the fee reduction or waiver request. The requester shall clearly mark its appeal request and any envelope that encloses it with the words "Appeal for Fee Reduction/Waiver."

(g) *Notice of estimated fees; advance payments.* (1) When the Council estimates the fees for processing a request will exceed the limit set by the requester, and that amount is less than \$250, the Council shall notify the requester of the estimated costs, broken down by search, review and duplication fees. The requester must provide an agreement to pay the estimated costs, except that the requester may reformulate the request in an attempt to reduce the estimated fees.

(2) If the requester fails to state a limit and the costs are estimated to exceed \$250, the requester shall be notified of the estimated costs, broken down by search, review and duplication fees, and must pay such amount prior to the processing of the request, or provide satisfactory assurance of full payment if the requester has a history of prompt payment of FOIA fees. Alternatively, the requester may reformulate the request in such a way as to constitute a request for responsive records at a reduced fee.

(3) The Council reserves the right to request advance payment after a request is processed and before records are released.

(4) If a requester previously has failed to pay a fee within thirty (30) calendar days of the date of the billing, the requester shall be required to pay the full amount owed plus any applicable interest, and to make an advance

payment of the full amount of the estimated fee before the Council begins to process a new request or the pending request.

(h) *Form of payment.* Payment may be made by check or money order paid to the Treasurer of the United States.

(i) *Charging interest.* The Council may charge interest on any unpaid bill starting on the 31st day following the date of billing the requester. Interest charges will be assessed at the rate provided in 31 U.S.C. 3717 and will accrue from the date of the billing until payment is received by the Council. The Council will follow the provisions of the Debt Collection Act of 1982 (Pub. L. 97-365, 96 Stat. 1749), as amended, and its administrative procedures, including the use of consumer reporting agencies, collection agencies, and offset.

(j) *Aggregating requests.* If the Council reasonably determines that a requester or a group of requesters acting together is attempting to divide a request into a series of requests for the purpose of avoiding fees, the Council may aggregate those requests and charge accordingly. The Council may presume that multiple requests involving related matters submitted within a thirty (30) calendar day period have been made in order to avoid fees. The Council shall not aggregate multiple requests involving unrelated matters.

Dated: November 16, 2017.

Eric A. Froman,

Executive Director, Financial Stability Oversight Council.

[FR Doc. 2017-25386 Filed 11-22-17; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2017-0982; Product Identifier 2017-SW-009-AD; Amendment 39-19102; AD 2017-23-08]

RIN 2120-AA64

Airworthiness Directives; Agusta S.p.A. Helicopters

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

ACTION: Final rule; request for comments.

SUMMARY: We are superseding Airworthiness Directive (AD) 2014-24-02 for Agusta S.p.A. (Agusta) Model AB139 and AW139 helicopters. AD 2014-24-02 required repetitively inspecting the main rotor (M/R) rotating

scissors, removing certain lower half scissor spherical bearings (bearings) from service, and installing a special nut. This new AD revises the inspection requirements and requires replacing the bearings. This AD is prompted by a new report of a dislodged bearing of an M/R rotating scissor. The actions of this AD are intended to correct an unsafe condition on these products.

DATES: This AD becomes effective December 11, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain document listed in this AD as of December 11, 2017.

We must receive comments on this AD by January 23, 2018.

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

- *Federal eRulemaking Docket:* Go to <http://www.regulations.gov>. Follow the online instructions for sending your comments electronically.

- *Fax:* 202-493-2251.

- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.

- *Hand Delivery:* Deliver to the "Mail" address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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-2017-0982; or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the European Aviation Safety Agency (EASA) AD, any incorporated by reference service information, the economic evaluation, any comments received, and other information. The street address for the Docket Operations Office (telephone 800-647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

For service information identified in this final rule, contact Leonardo S.p.A. Helicopters, Matteo Ragazzi, Head of Airworthiness, Viale G. Agusta 520, 21017 C. Costa di Samarate (Va) Italy; telephone +39-0331-711756; fax +39-0331-229046; or at <http://www.leonardocompany.com/-/bulletins>. You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N-321, Fort Worth, TX 76177. It is also

available on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA–2017–0982.

FOR FURTHER INFORMATION CONTACT: Matt Fuller, Senior Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy, Fort Worth, TX 76177; telephone (817) 222–5110; email matthew.fuller@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not provide you with notice and an opportunity to provide your comments prior to it becoming effective. However, we invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that resulted from adopting this AD. The most helpful comments reference a specific portion of the AD, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit them only one time. We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this rulemaking during the comment period. We will consider all the comments we receive and may conduct additional rulemaking based on those comments.

Discussion

We issued AD 2014–24–02, Amendment 39–18035 (79 FR 70785, November 28, 2014) (AD 2014–24–02), for Agusta S.p.A. Model AB139 and AW139 helicopters with a M/R rotating scissors part number (P/N) 3G6230A00733 with a bearing P/N 3G6230V00654 installed. AD 2014–24–02 required repetitive inspections of the M/R rotating scissors for damage and play of the bearing and replacing the nut with a special nut, P/N 3G6230A06851, which lengthens the compliance time for repetitive inspections. AD 2014–24–02 was prompted by AD No. 2014–0215–E, dated September 24, 2014, issued by EASA, which is the Technical Agent for the Member States of the European Union. EASA AD No. 2014–0215–E corrected an unsafe condition for the AgustaWestland S.p.A and AgustaWestland Philadelphia Corporation Model AB139 and AW139

helicopters. EASA advised of reports of early excessive play in the bearings and a report of a chipped bearing liner.

Actions Since AD 2014–24–02 Was Issued

Since we issued AD 2014–24–02, EASA issued AD No. 2017–0028–E, dated February 15, 2017, which supersedes AD No. 2014–0215–E. EASA AD No. 2017–0028–E was prompted by a report of a dislodged bearing P/N 3G6230V00654 with special nut P/N 3G6230A06851 installed. EASA advises that all bearings P/N 3G6230V00654 could prematurely damage or wear, including those with the special nut. For these reasons, EASA AD No. 2017–0028–E partially retains the repetitive inspections and requires replacement of the bearing with improved bearing P/N 3G6230V00655 as terminating action for the inspections.

Additionally, Agusta S.p.A. has changed its name to Leonardo Helicopters. Because the FAA is in the process of updating this name change on its FAA type certificate and it is not yet effective, this AD specifies Agusta S.p.A. as the type certificate holder.

FAA's Determination

These helicopters have been approved by the aviation authority of Italy and are approved for operation in the United States. Pursuant to our bilateral agreement with Italy, EASA, its technical representative, has notified us of the unsafe condition described in the EASA AD. We are issuing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs.

Related Service Information Under 1 CFR Part 51

We reviewed Leonardo Helicopters (previously Agusta S.p.A.) Alert Bollettino Tecnico No. 139–392, Revision A, dated February 14, 2017. This service information specifies repetitively inspecting the M/R rotating scissors to monitor the bearings and replacing the bearing with a new part-numbered bearing.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Other Related Service Information

We reviewed Leonardo Helicopters AW139 IETP Document Code AMP–39–C–62–31–00–00A–31AC–A, Rotating control installation—Fixed swashplate and rotating scissors—Detailed

inspection, Issue 29, dated July 31, 2017. This service information describes procedures for a detailed inspection of the fixed swashplate and rotating scissors.

AD Requirements

This new AD reduces the inspection interval for some M/R rotating scissors, clarifies the inspection for damage, adds an inspection for movement of the bearing out of its seat, and retains the inspection for play of the bearing. Depending on the outcome of these inspections, this AD requires replacing the bearing with an improved bearing, replacing the rotating scissor attachment flange with a certain part-numbered rotating scissor attachment flange, and replacing the nut with a certain part-numbered special nut. If not done as a result of the inspections, this AD also requires replacing each nut with a certain part-numbered special nut.

Differences Between This AD and the EASA AD

The EASA AD requires replacing each bearing P/N 3G6230V00654 with bearing P/N 3G6230V00655 within 12 months; whereas, this AD does not. We plan to publish a notice of proposed rulemaking to give the public an opportunity to comment on this long-term requirement.

Costs of Compliance

We estimate that this AD affects 103 helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this AD. Labor costs are estimated at \$85 per work-hour. Inspecting for bearing liner wear, seat movement, and play will take about 1 work-hour for a cost of \$85 per helicopter and \$8,755 for the U.S. fleet per inspection cycle. Replacing a bearing will take 2 work-hours and parts will cost \$892 for a cost of \$1,062 per bearing. Replacing a rotating scissor attachment flange will cost \$20,629 for parts and no additional labor. Installing two special nuts on a helicopter will take 1 work-hour and parts will cost \$682 for a cost of \$767 helicopter and \$79,001 for the U.S. fleet.

According to Leonardo Helicopter's service information, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage by Leonardo Helicopter. Accordingly, we have included all costs in our cost estimate.

FAA's Justification and Determination of the Effective Date

Providing an opportunity for public comments prior to adopting these AD

requirements would delay implementing the safety actions needed to correct this known unsafe condition. Therefore, we find that the risk to the flying public justifies waiving notice and comment prior to the adoption of this rule because the unsafe condition can adversely affect the controllability of the helicopter and some of the required corrective actions must be accomplished within 5 hours time-in-service and thereafter every 24 hours. Other corrective actions in this AD must be accomplished within 100 hours time-in-service; however, these helicopters are generally high-usage aircraft and could reach this compliance time within a very short calendar time.

Since an unsafe condition exists that requires the immediate adoption of this AD, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in less than 30 days.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, I certify that this AD:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and

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

We prepared an economic evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

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

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 removing Airworthiness Directive (AD) 2014–24–02, Amendment 39–18035 (79 FR 70785, November 28, 2014), and adding the following new AD:

2017–23–08 Agusta S.p.A.: Amendment 39–19102; Docket No. FAA–2017–0982; Product Identifier 2017–SW–009–AD.

(a) Applicability

This AD applies to Model AB139 and AW139 helicopters with main rotor (M/R) rotating scissors with a lower half scissor spherical bearing (bearing) P/N 3G6230V00654 installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as excessive play of the bearing in the M/R rotating scissors. This condition could result in failure of the M/R rotating scissors and subsequent loss of control of the helicopter.

(c) Affected ADs

This AD supersedes AD 2014–24–02, Amendment 39–18035 (79 FR 70785, November 28, 2014).

(d) Effective Date

This AD becomes effective December 11, 2017.

(e) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(f) Required Actions

(1) Within 5 hours time-in-service (TIS), and thereafter before the first flight of each

day or at intervals not exceeding 24-clock hours, whichever occurs later:

(i) Using a magnifying glass and a flashlight, visually inspect each bearing for wear of the bearing liner. Some examples of wear are shown in Figures 4 through 8 of Leonardo Helicopters Alert Bollettino Tecnico No. 139–392, Revision A, dated February 14, 2017 (BT 139–392). If there is any wear of the liner, before further flight, replace the bearing with bearing P/N 3G6230V00655 and install special nut P/N 3G6230A06851. Replacing the bearing with bearing P/N 3G6230V00655 constitutes terminating action for the remaining actions of this AD for the bearing.

(ii) Inspect each bearing for movement. Refer to Figure 9 of BT 139–392. If the bearing moves freely out of its seat, before further flight, replace the rotating scissor attachment flange with flange P/N 3G6220A00633, replace the bearing with bearing P/N 3G6230V00655 and install special nut P/N 3G6230A06851. Replacing the bearing with bearing P/N 3G6230V00655 constitutes terminating action for the remaining actions of this AD for the bearing.

(iii) Inspect the M/R rotating scissors for play and wear of each bearing, paying particular attention to the bearing staking condition, by manually moving the lower half scissor along the axis of the spherical bearing. Refer to Figure 1 of BT 139–392. If there is any play or wear beyond allowable limits, before further flight, replace the bearing with bearing P/N 3G6230V00655 and install special nut P/N 3G6230A06851. Replacing the bearing with bearing P/N 3G6230V00655 constitutes terminating action for the remaining actions of this AD for the bearing.

(2) Within 100 hours TIS, replace and torque each lower half scissor nut with special nut P/N 3G6230A06851 to the M/R rotating scissor in accordance with the Compliance Instructions, Part II, steps 5.1 through 5.9 of BT 139–392, except you are not required to discard parts.

(3) As of the effective date of this AD, do not install any M/R rotating scissors with a bearing P/N 3G6230V00654 installed.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Section, FAA, may approve AMOCs for this AD. Send your proposal to: Matt Fuller, Senior Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy, Fort Worth, TX 76177; telephone (817) 222–5110; email 9-ASW-FTW-AMOC-Requests@faa.gov.

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office, before operating any aircraft complying with this AD through an AMOC.

(h) Additional Information

(1) Leonardo Helicopters AW139 IETP Document Code AMP–39–C–62–31–00–00A–31AC–A, Rotating control installation—Fixed

swashplate and rotating scissors—Detailed inspection, Issue 29, dated July 31, 2017, which is not incorporated by reference, contains additional information about the subject of this AD. For service information identified in this AD, contact Leonardo S.p.A. Helicopters, Matteo Ragazzi, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39-0331-711756; fax +39-0331-229046; or at <http://www.leonardocompany.com/-/bulletins>. You may review a copy of the service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N-321, Fort Worth, TX 76177.

(2) The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2017-0028-E, dated February 15, 2017. You may view the EASA AD on the Internet at <http://www.regulations.gov> by searching for and locating it in Docket No. FAA-2017-0982.

(i) Subject

Joint Aircraft Service Component (JASC)
Code: 6200, M/R System.

(j) Material Incorporated by Reference

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

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

(i) Leonardo Helicopters Alert Bollettino Tecnico No. 139-392, Revision A, dated February 14, 2017.

(ii) Reserved.

(3) For Leonardo Helicopters service information identified in this AD, contact Leonardo S.p.A. Helicopters, Matteo Ragazzi, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39-0331-711756; fax +39-0331-229046; or at <http://www.leonardocompany.com/-/bulletins>.

(4) You may view this service information at FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N-321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222-5110.

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

Issued in Fort Worth, Texas, on November 7, 2017.

Scott A. Horn,

Deputy Director for Regulatory Operations,
Compliance & Airworthiness Division,
Aircraft Certification Service.

[FR Doc. 2017-24738 Filed 11-22-17; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2017-1027; Product Identifier 2017-NM-092-AD; Amendment 39-19105; AD 2017-24-01]

RIN 2120-AA64

Airworthiness Directives; ATR—GIE Avions de Transport Régional Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain ATR—GIE Avions de Transport Régional Model ATR42-500 airplanes and Model ATR72-212A airplanes. This AD requires an inspection for routing attachments of electrical harness bundles and for wire damage, and corrective actions if necessary. This AD was prompted by reports of electrical harness bundle chafing with a window blinding panel in the fuselage due to missing routing attachments. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective December 11, 2017.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of December 11, 2017.

We must receive comments on this AD by January 8, 2018.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* 202-493-2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590.

- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this final rule, contact ATR—GIE Avions de Transport Régional, 1, Allée Pierre Nadot, 31712 Blagnac Cedex, France; telephone +33 (0) 5 62 21 62 21; fax +33 (0) 5 62 21 67 18; email

continued.airworthiness@atr-aircraft.com. You may view this referenced service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221. It is also available on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2017-1027.

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-2017-1027; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800-647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Shahram Daneshmandi, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057-3356; telephone 425-227-1112; fax 425-227-1149.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2017-0118, dated July 7, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition for certain ATR—GIE Avions de Transport Régional Model ATR42-500 airplanes and Model ATR72-212A airplanes. The MCAI states:

An event was reported of several spurious alarms on a recently delivered ATR 72 aeroplane. During troubleshooting, damage was evidenced on the electrical harness bundle (Route 1M) due to chafing with a window blinding panel located on the left hand of the fuselage, zone 231. A bracket, necessary to maintain the harness bundle close to the structure of the fuselage and avoid chafing, was missing.

Same bracket has also been found missing on the other side of the fuselage (symmetrical location, Right Hand side, zone 232, route 2M) with no damage on the harness bundle.

A quality investigation revealed another aeroplane on the production line, where same brackets were not installed.

This condition, if not detected and corrected, may lead to wire failure (cut or shorted) and, in case of several failures in

combination, the loss of systems, possibly resulting in reduced control of the aeroplane.

To address this potential unsafe condition, ATR published Service Bulletin (SB) ATR 42-92-0033 and SB ATR 72-92-1044 to provide instructions to verify the installation of the brackets and to inspect the wire bundles [for damage *e.g.*, but not limited to, chafing and electrical shorting].

For the reasons described above, this [EASA] AD requires a one-time [detailed] inspection of the routing attachments [for missing attachments and wire damage] and, depending on findings, installation of the brackets and, as necessary, wire repair.

You may examine the MCAI on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2017-1027.

Related Service Information Under 1 CFR Part 51

ATR has issued Service Bulletin ATR42-92-0033, dated May 3, 2017, for Model ATR42 airplanes; and Service Bulletin ATR72-92-1044, dated May 3, 2017, for Model ATR72 airplanes. This service information describes procedures for doing an inspection of routing attachments of electrical harness bundles and for wire damage, and corrective actions if necessary. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

FAA's Determination and Requirements of This AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type designs.

FAA's Determination of the Effective Date

There are currently no domestic operators of this product. Therefore, we find good cause that notice and opportunity for prior public comment are unnecessary. In addition, for the reason(s) stated above, we find that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and

opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the ADDRESSES section. Include "Docket No. FAA-2017-1027; Product Identifier 2017-NM-092-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD based on those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this AD.

Costs of Compliance

Currently, there are no affected U.S.-registered airplanes. If an affected airplane is imported and placed on the U.S. Register in the future, we provide the following cost estimates to comply with this AD. We 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. Required parts will cost about \$0 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be \$0, or \$255 per product.

In addition, we estimate that any necessary follow-on actions will take about 1 work-hour and require parts costing \$6, for a cost of \$91 per product. We have no way of determining the number of aircraft that might need these actions.

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):

2017-24-01 ATR—GIE Avions de Transport Régional: Amendment 39-19105; Docket No. FAA-2017-1027; Product Identifier 2017-NM-092-AD.

(a) Effective Date

This AD becomes effective December 11, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the ATR—GIE Avions de Transport Régional airplanes identified in paragraphs (c)(1) and (c)(2) of this AD, certificated in any category.

(1) Model ATR42–500 airplanes, serial numbers (S/Ns) 1014, 1016 through 1019 inclusive, and 1201 through 1212 inclusive.

(2) Model ATR72–212A airplanes, S/Ns 1165 through 1200 inclusive, 1220 through 1340 inclusive, 1342 through 1353 inclusive, 1355 through 1366 inclusive, 1368 through 1376 inclusive, 1378 through 1380 inclusive, 1382, 1385, and 1388.

(d) Subject

Air Transport Association (ATA) of America Code 92, Electrical System Installation.

(e) Reason

This AD was prompted by reports of electrical harness bundle chafing with a window blinding panel in the fuselage. We are issuing this AD to detect and correct missing routing attachments of fuselage electrical harness bundles, which could result in wire failure (cut or shorted) and, in case of several failures in combination, the loss of systems, possibly resulting in reduced control of the airplane.

(f) Compliance

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

(g) Inspection

Within 6 months or 500 flight hours after the effective date of this AD, whichever occurs first: Do a detailed inspection for missing brackets and damage (including but not limited to chafing and electrical shorting) to wire bundles of the Route 1M and Route 2M electrical harness, in accordance with the Accomplishment Instructions of ATR Service Bulletin ATR42–92–0033, dated May 3, 2017 (for Model ATR42–500 airplanes); or ATR Service Bulletin ATR72–92–1044, dated May 3, 2017 (for Model ATR72–212A airplanes); as applicable.

(h) Corrective Action

If the inspection required by paragraph (g) of this AD reveals that any bracket is missing or any wire is damaged: Before further flight, do applicable corrective actions, in accordance with the Accomplishment Instructions of ATR Service Bulletin ATR42–92–0033, dated May 3, 2017 (for Model ATR42–500 airplanes); or ATR Service Bulletin ATR72–92–1044, dated May 3, 2017 (for Model ATR72–212A airplanes); as applicable. Where ATR Service Bulletin ATR42–92–0033, dated May 3, 2017; or ATR Service Bulletin ATR72–92–1044, dated May 3, 2017; specifies to contact ATR—GIE Avions de Transport Régional for appropriate action: Before further flight, accomplish corrective actions in accordance with the

procedures specified in paragraph (i)(2) of this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Branch, send it to the attention of the person identified in paragraph (j)(2) of this AD. Information may be emailed to: 9-ANM-116-AMOC-REQUESTS@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer*: For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or ATR—GIE Avions de Transport Régional's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2017–0118, dated July 7, 2017, for related information. You may examine the MCAI on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA–2017–1027.

(2) For more information about this AD, contact Shahram Daneshmandi, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1112; fax 425–227–1149.

(k) Material Incorporated by Reference

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

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

(i) ATR Service Bulletin ATR42–92–0033, dated May 3, 2017.

(ii) ATR Service Bulletin ATR72–92–1044, dated May 3, 2017.

(3) For service information identified in this AD, contact ATR—GIE Avions de Transport Régional, 1, Allée Pierre Nadot, 31712 Blagnac Cedex, France; telephone +33 (0) 5 62 21 62 21; fax +33 (0) 5 62 21 67 18; email continued.airworthiness@atr-aircraft.com.

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

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

Issued in Renton, Washington, on November 8, 2017.

Dionne Palermo,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–25004 Filed 11–22–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA–2017–0499; Product Identifier 2016–NM–205–AD; Amendment 39–19090; AD 2017–22–10]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 747–400, 747–400F, and 747–8F series airplanes. This AD was prompted by reports of failure of the fastener assemblies on the crew access ladder handrails. This AD requires replacing the fastener assemblies. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective December 29, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 29, 2017.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; Internet <https://www.myboeingfleet.com>. You may view this service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA–2017–0499.

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-2017-0499; 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 final rule, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 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: Susan L. Monroe, Aerospace Engineer, Cabin Safety and Environmental Systems Section, FAA, Seattle ACO Branch, 1601 Lind Avenue SW., Renton, WA; phone: 425-917-6457; fax: 425-917-6590; email: susan.l.monroe@faa.gov.

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 The Boeing Company Model 747-400, 747-400F, and 747-8F series airplanes. The NPRM published in the **Federal Register** on May 30, 2017 (82 FR 24595). The NPRM was prompted by reports of failure of the fastener assemblies on the crew access ladder handrails. The NPRM proposed to require replacing the fastener assemblies. We are issuing this AD to prevent the fastener assemblies from coming loose on the crew access ladder handrails, which could result in serious or fatal injury to personnel.

Comments

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

Request To Withdraw the NPRM

United Parcel Service (UPS) requested that the NPRM be withdrawn. UPS pointed out that the crew access ladder is stowed during flight and stated that failure of the ladder does not affect safety of flight of the airplane. Therefore, UPS stated that the failure of the crew access ladder should not be the subject of an AD as it is outside the scope of 14 CFR part 39.

We do not agree with UPS’s request. Title 14 part 39.5 states: “FAA issues an airworthiness directive addressing a product when we find that: (a) An unsafe condition exists in the product; and (b) The condition is likely to exist or develop in other products of the same type design.” This action does fall within the scope of 14 CFR part 39 because an unsafe condition exists in a product that is likely to exist in other products of the same design. In addition, the ladder is accessible to, and in some cases may be used by, the flight crew during flight. Incapacitation of a flight crew member during flight is considered a safety of flight issue. We have not changed this AD in this regard.

Requests To Revise Applicability To Match the Service Information

Boeing requested that we remove the “Differences Between this Proposed AD and the Service Information” section of the NPRM. Boeing explained that this information implies that airplanes delivered with compliant rotatable hardware could have the rotatable hardware subsequently replaced with non-compliant hardware. Boeing stated that this is very unlikely because compliant airplanes have the compliant rotatable hardware sealed within a permanent protective cover.

UPS requested that we revise the applicability to remove Model 747-8F series airplanes, line numbers (L/Ns) 1540 and on, specified in paragraphs (c)(2) and (c)(3) of the proposed AD. UPS asserted that Boeing has confirmed that those airplanes will have the compliant parts installed during production.

We partially agree with the commenters’ requests. We do not agree to remove the “Differences Between this

Proposed AD and the Service Information” section of the NPRM. This section is not restated in the final rule, so no change is necessary in this regard.

We agree that the likelihood of discrepant parts being installed on an airplane that is outside the applicability of Boeing Special Attention Service Bulletin 747-25-3693, dated November 10, 2016, is sufficiently low. Therefore, we have revised the applicability of this AD accordingly. We also removed paragraph (h) of the proposed AD from this AD and redesignated subsequent paragraphs accordingly.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this final rule 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 final rule.

Related Service Information Under 14 CFR Part 51

We reviewed Boeing Special Attention Service Bulletin 747-25-3693, dated November 10, 2016. The service information describes procedures for replacing the existing fastener assemblies with new assemblies on the crew access ladder handrails. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD will affect 84 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replacement	3 work-hours × \$85 per hour = \$255	\$2,418	\$2,673	\$224,532

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the

cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we

have included all costs in our cost estimate.

Authority for This Rulemaking

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

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

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

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 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):

2017–22–10 The Boeing Company:
Amendment 39–19090; Docket No. FAA–2017–0499; Product Identifier 2016–NM–205–AD.

(a) Effective Date

This AD is effective December 29, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 747–400, 747–400F, and 747–8F series airplanes, certificated in any category, as identified in Boeing Special Attention Service Bulletin 747–25–3693, dated November 10, 2016.

(d) Subject

Air Transport Association (ATA) of America Code 25; Equipment/furnishings.

(e) Unsafe Condition

This AD was prompted by reports of failure of the fastener assemblies on the crew access ladder handrails. We are issuing this AD to prevent the fastener assemblies from coming loose on the crew access ladder handrails, which could result in serious or fatal injury to personnel.

(f) Compliance

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

(g) Replacement

Within 36 months after the effective date of this AD, replace the fastener assemblies in the crew access ladder handrails with new fastener assemblies, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 747–25–3693, dated November 10, 2016.

(h) Parts Installation Limitation

As of the effective date of this AD, no person may install the discrepant fastener hardware identified in the Accomplishment Instructions of Boeing Special Attention Service Bulletin 747–25–3693, dated November 10, 2016, on a crew access ladder on any airplane.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle 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 manager of the certification office, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: 9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO Branch, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (i)(4)(i) and (i)(4)(ii) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. If a step or substep is labeled "RC Exempt," then the RC requirement is removed from that step or substep. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(j) Related Information

For more information about this AD, contact Susan L. Monroe, Aerospace Engineer, Cabin Safety and Environmental Systems Section, FAA, Seattle ACO Branch, 1601 Lind Avenue SW., Renton, WA; phone: 425–917–6457; fax: 425–917–6590; email: susan.l.monroe@faa.gov.

(k) Material Incorporated by Reference

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

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

(i) Boeing Special Attention Service Bulletin 747–25–3693, dated November 10, 2016.

(ii) Reserved.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110-SK57, Seal Beach, CA 90740-5600; telephone 562-797-1717; Internet <https://www.myboeingfleet.com>.

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

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

Issued in Renton, Washington, on October 19, 2017.

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017-23998 Filed 11-22-17; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Part 122

[CBP Dec. 17-18]

Technical Amendment to List of User Fee Airports: Removal of Meadows Field Airport, Bakersfield, CA and the Addition of Griffiss International Airport, Rome, NY; Van Nuys Airport, Van Nuys, CA; Cobb County Airport-McCollum Field, Kennesaw, GA; and Charlotte-Monroe Executive Airport, Monroe, NC

AGENCY: U.S. Customs and Border Protection, DHS.

ACTION: Final rule; technical amendment.

SUMMARY: This document amends U.S. Customs and Border Protection (CBP) regulations by revising the list of user fee airports to reflect the removal of user fee status for Meadows Field Airport in Bakersfield, California and the designation of user fee status for four additional airports: Griffiss International Airport in Rome, New York; Van Nuys Airport in Van Nuys, California; Cobb County Airport-McCollum Field in Kennesaw, Georgia; and Charlotte-Monroe Executive Airport in Monroe, North Carolina. User fee airports are those airports which, while not qualifying for designation as international or landing rights airports, have been approved by the

Commissioner of CBP to receive, for a fee, the services of CBP officers for the processing of aircraft entering the United States, and the passengers and cargo of those aircraft.

DATES: *Effective Date:* November 24, 2017.

FOR FURTHER INFORMATION CONTACT: Chris Sullivan, Director, Alternative Funding Program, Office of Field Operations, U.S. Customs and Border Protection at Christopher.J.Sullivan@cbp.dhs.gov or 202-344-3907.

SUPPLEMENTARY INFORMATION:

Background

Title 19, part 122 of the Code of Federal Regulations (19 CFR part 122) sets forth regulations relating to the entry and clearance of aircraft in international commerce and the transportation of persons and cargo by aircraft in international commerce. Generally, a civil aircraft arriving from a place outside of the United States is required to land at an airport designated as an international airport. Alternatively, the pilot of a civil aircraft may request permission to land at a specific airport and, if landing rights are granted, the civil aircraft may land at that landing rights airport.

Section 236 of the Trade and Tariff Act of 1984 (Pub. L. 98-573, 98 stat. 2948, 2994 (1984)), codified at 19 U.S.C. 58b, created an option for civil aircraft desiring to land at an airport other than an international airport or a landing rights airport. A civil aircraft arriving from a place outside of the United States may ask for permission to land at an airport designated by the Secretary of Homeland Security¹ as a user fee airport.

Pursuant to 19 U.S.C. 58b, an airport may be designated as a user fee airport if the Commissioner of CBP, as delegated by the Secretary of Homeland Security, determines that the volume or value of business at the airport is insufficient to justify the availability of customs services at the airport and the governor of the state in which the airport is located approves the designation.² As the volume or value of business anticipated at this type of airport is insufficient to justify its designation as an international or landing rights airport, the availability of

¹ Sections 403(1) and 411 of the Homeland Security Act of 2002 (Pub. L. 107-296, 116 stat. 2135, 2178-79 (2002)), codified at 6 U.S.C. 203(1) and 211, transferred certain functions, including the authority to designate user fee facilities, from the U.S. Customs Service of the Department of the Treasury to the Department of Homeland Security.

² In addition to airports, 19 U.S.C. 58b also authorizes the designation of seaports or other facilities as user fee facilities.

customs services is not paid for out of appropriations from the general treasury of the United States. Instead, customs services are provided on a fully reimbursable basis to be paid for by the user fee airport. The fees charged must be paid by the user fee airport and must be in the amount equal to the expenses incurred by the Commissioner of CBP in providing customs services at such airport, including the salary and expenses of those employed by the Commissioner of CBP to provide the customs services. *See* 19 U.S.C. 58b.

The Commissioner of CBP designates airports as user fee airports in accordance with 19 U.S.C. 58b and pursuant to 19 CFR 122.15. If the Commissioner decides that the conditions for designation as a user fee airport are satisfied, a Memorandum of Agreement (MOA) is executed between the Commissioner of CBP and the user fee airport sponsor. The user fee status designation may be withdrawn if either CBP or the airport authority provides 120 days written notice of termination to the other party. *See* 19 CFR 122.15(c)(1). In this manner, user fee airports are designated and withdrawn on a case-by-case basis.

Section 122.15 of CBP's regulations also sets forth the list of designated user fee airports. Periodically, CBP updates the list of user fee airports at 19 CFR 122.15(b) to reflect those that are currently designated by the Commissioner of CBP.

Recent Changes Requiring Updates to the List of User Fee Airports

This document updates the list of user fee airports in 19 CFR 122.15(b) by adding Griffiss International Airport in Rome, New York; Van Nuys Airport in Van Nuys, California; Cobb County Airport-McCollum Field in Kennesaw, Georgia; and Charlotte-Monroe Executive Airport in Monroe, North Carolina. The Commissioner of CBP has signed an MOA designating each of these four airports as a user fee airport.³

Additionally, this document updates the list of user fee airports by removing Meadows Field Airport in Bakersfield, California. After an initial request by the airport authority of Meadows Field Airport to withdraw its user fee status, the airport authority and CBP agreed to terminate their MOA and the user fee status of Meadows Field Airport. On November 23, 2016, the Commissioner

³ The Commissioner of CBP signed an MOA designating Griffiss International Airport on March 3, 2015, an MOA designating Van Nuys Airport on April, 17, 2015, an MOA designating Cobb County Airport-McCollum Field on June 8, 2015, and an MOA designating Charlotte-Monroe Executive Airport on July 28, 2014.

of CBP provided written notice to the airport authority of Meadows Field Airport that the user fee status of Meadows Field Airport was terminated.

Inapplicability of Public Notice and Delayed Effective Date Requirements

Under the Administrative Procedure Act (5 U.S.C. 553(b)), an agency is exempted from the prior public notice and comment procedures if it finds, for good cause, that they are impracticable, unnecessary, or contrary to the public interest. This final rule makes a conforming change by updating the list of user fee airports to add four airports that have already been designated by the Commissioner of CBP in accordance with 19 U.S.C. 58b as user fee airports and to remove one airport from the list, the designation of which has already been withdrawn by the Commissioner of CBP. Because this conforming rule has no substantive impact, is technical in nature, and does not impose additional burdens on or take away any existing rights or privileges from the public, CBP finds for good cause that the prior public notice and comments procedures are impracticable, unnecessary, and contrary to the public interest. For the same reasons, pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required.

Regulatory Flexibility Act and Executive Orders 12866 and 13771

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. This amendment does not meet the criteria for a “significant regulatory action” as specified in Executive Order 12866. Additionally, because this amendment is not a significant regulatory action it is not subject to the requirements of Executive Order 13771.

Paperwork Reduction Act

There is no new collection of information required in this document; therefore, the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) are inapplicable.

Signing Authority

This document is limited to a technical correction of CBP regulations. Accordingly, it is being signed under the authority of 19 CFR 0.1(b).

List of Subjects in 19 CFR Part 122

Air carriers, Aircraft, Airports, Customs duties and inspection, Freight.

Amendments to Regulations

Part 122, of title 19 of the Code of Federal Regulations (19 CFR part 122) is amended as set forth below:

PART 122—AIR COMMERCE REGULATIONS

■ 1. The general authority citation for part 122 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1431, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a, 2071 note.

* * * * *

■ 2. Section 122.15(b) is amended by removing the entry for “Bakersfield, California” and adding entries in alphabetical order for “Kennesaw, Georgia,” “Monroe, North Carolina,” “Rome, New York,” and “Van Nuys, California” to read as follows:

§ 122.15 User fee airports.

* * * * *

(b) * * *

Location	Name
* * * * *	
Kennesaw, Georgia ..	Cobb County Airport-McCollum Field.
* * * * *	
Monroe, North Carolina.	Charlotte-Monroe Executive Airport.
* * * * *	
Rome, New York	Griffiss International Airport.
* * * * *	
Van Nuys, California	Van Nuys Airport.
* * * * *	

* * * * *

Dated: November 20, 2017.

Kevin K. McAleenan,

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

[FR Doc. 2017-25436 Filed 11-22-17; 8:45 am]

BILLING CODE 9111-14-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1904

[Docket No. OSHA-2013-0023]

RIN 1218-AD16

Improve Tracking of Workplace Injuries and Illnesses: Delay of Compliance Date

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final rule; delay of compliance date.

SUMMARY: This action delays until December 15, 2017, the initial submission deadline for calendar year 2016 data on Form 300A under the rule entitled Improve Tracking of Workplace Injuries and Illnesses. The original electronic submission deadline was July 1, 2017. This delay will allow affected entities sufficient time to familiarize themselves with the electronic reporting system, which was not made available until August 1, 2017.

DATES: This regulation is effective on November 24, 2017. The submission deadline for completed 2016 Form 300A data is delayed to December 15, 2017.

FOR FURTHER INFORMATION CONTACT:

For press inquiries: Frank Meilinger, Director, Office of Communications, Room N-3647, OSHA, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693-1999; email meilinger.francis2@dol.gov.

For general and technical information: Miriam Schoenbaum, OSHA, Office of Statistical Analysis, Room N-3507, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693-1841; email: schoenbaum.miriam@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On May 12, 2016, the Occupational Safety and Health Administration (OSHA) published a final rule (81 FR 29624) with an effective date of January 1, 2017, for the final rule’s electronic reporting requirements. Under these requirements, certain employers were required to electronically submit 2016 Form 300A data to OSHA by July 1, 2017.

On June 28, 2017, the Department proposed to delay the initial deadline for electronic submission of 2016 Form 300A data from July 1, 2017, to December 1, 2017, to provide the new administration the opportunity to review the new electronic reporting requirements prior to their implementation and allow affected entities sufficient time to familiarize themselves with the electronic reporting system, which was not made available until August 1, 2017 (82 FR 29261).

On August 14, 2017, the Occupational Safety and Health Administration (OSHA) received an alert from the United States Computer Emergency Readiness Team (US-CERT) in the Department of Homeland Security that indicated a potential compromise of

user information for OSHA's Injury Tracking Application (ITA). The ITA was taken off-line as a precaution. A complete scan was conducted by the National Information Technology Center (NITC). The NITC confirmed that there was no breach of the data in the ITA and that no information in the ITA was compromised. Public access to the ITA was restored on August 25, 2017.

In establishing the effective date of this action, the Agency invokes the good cause exception in 5 U.S.C. 553(d)(3), which allows the action to be immediately effective for "good cause" rather than subject to the requirement in the Administrative Procedure Act (5 U.S.C. 553(d)) that a minimum of 30 days is required before a rule may become effective. The nature of this action, which is to delay the submission deadline for completed 2016 Form 300A data that could not have been complied with as of the submission date in the original rule, makes it unnecessary and impractical to delay the effectiveness of this action by 30 days.

In this preamble, OSHA references comments in Docket No. OSHA-2013-0023, the docket for this rulemaking. References to documents in this rulemaking are given as "Ex." followed by the document number. The docket is available at <http://www.regulations.gov>, the Federal eRulemaking Portal.

II. Summary and Explanation of the Final Rule

A. Comments Received on the Proposed Delay of Compliance Date

The June 28, 2017, Notice of Proposed Rulemaking (NPRM) proposed to delay the initial submission deadline for 2016 Form 300A data to December 1, 2017. In the NPRM, OSHA also announced its intent to issue a separate proposal to reconsider, revise, or remove other provisions of the prior final rule and to seek comment on those provisions in that separate proposal. This final rule only addresses comments specific to the delay of the July 1, 2017, compliance date. In the NPRM, OSHA described its intent to provide employers a four-month window to submit their Form 300A data between the launch of the ITA on August 1 and the proposed due date of December 1. In order to remain consistent with the intent to provide a four-month window, OSHA has added two weeks to the proposed compliance date of December 1, 2017, to compensate for the time employers were unable to access the ITA in August. With the launch of the electronic reporting system on August 1, and the revised deadline of December 15, employers will still have four months

(August, September, October, November, and part of December) to submit their data.

OSHA received 72 substantive comments on its proposal to delay the submission deadline for completed 2016 Form 300A data to December 1, 2017.

Many commenters supported the proposed delay. Several commenters commented that a delay was necessary because employers were not able to meet the July 1, 2017, deadline because OSHA's electronic data collection system was not expected to be operational until August 1, 2017 (Ex. 1842, 1858, 1860, 1864, 1868, 1874, 1876, 1885, 1888, 1889, 1890, 1891, 1894, 1902, 1908). For example, the National Federation of Independent Business (NFIB) commented that "NFIB strongly supports a delay until at least December 1, 2017. Small and independent businesses should not be required to comply with a rule when compliance is impossible" (Ex. 1842). OSHA agrees with these comments. The data collection system was not made available to the public until August 1, 2017. Because the data collection system was not available until after the initial July 1, 2017 deadline, it was impossible for employers to comply with that provision of the regulation.

Other commenters mentioned that a delay would give OSHA more time to assure that the data collection Web site functions smoothly when it does go live. The North American Die Casting Association (NADCA) commented that a delay would give OSHA more time to deal with potential glitches in the Web site (Ex. 1894). Joseph Xavier commented that a delay would also give OSHA more time to make sure that the Web site is easy to use (Ex. 1887). In response, OSHA notes that the Agency originally planned to launch the electronic reporting system at the end of February, which would have given employers four months (March, April, May, June) to submit their data before the original deadline of July 1. The new reporting deadline of December 15, 2017, maintains the four-month window (August, September, October, November, and part of December) for employers to submit the required data.

Several commenters supported the proposed delay on the grounds that it would be helpful to employers for various reasons. Many commenters stated that a delay would give employers more time to familiarize themselves with the electronic reporting system (Ex. 1858, 1876, 1885, 1888, 1889, 1890, 1891, 1892, 1894, 1899, 1902, 1906). For example, the Edison Electric Institute commented that "[e]lectronic submission of OSHA 300A

forms will require time for EEI members to become familiar with the electronic reporting system, determine whether any IT system or other changes will be necessary to submit OSHA 300A forms electronically, and train employees in how to use the system (Ex. 1899). As above, OSHA notes that employers will have the same amount of time between system launch date and deadline (*i.e.*, four months) as they would originally have had under the May 2016 final rule. Other commenters mentioned that a delay would give more time for establishments to be educated about the new requirements (Ex. 1877, 1891). OSHA agrees that delaying the deadline from July 1, 2017, to December 15, 2017, gives more time for establishments to be educated about the requirements of the final rule published in May 2016.

Many commenters also supported the proposed delay as a means to allow OSHA more time to reevaluate the May 2016 final rule (Ex. 1856, 1860, 1872, 1874, 1877, 1885, 1888, 1889, 1890, 1891, 1893, 1894, 1902, 1904, 1906, 1907, 1912). For example, the Precision Machined Products Association (PMPA) commented that a delay until December 1, 2017, would "allow the Administration an opportunity to review the new electronic reporting requirements prior to implementation" (Ex. 1902). Other commenters supported the proposed delay as a first step, but they more strongly supported an even longer delay. Several commenters commented that the proposed five-month delay did not provide OSHA enough time to reconsider the final rule as mentioned in the NPRM (Ex. 1842, 1886, 1898, 1904, 1911, 1912, 1913). For example, Associated Builders and Contractors, Inc. (ABC) commented that "ABC is concerned that the delay will not be sufficient to allow OSHA to complete its reconsideration of the numerous challenged aspects of the rule" (Ex. 1912). This final rule delays the compliance date to submit employers' 2016 Form 300A data because it was infeasible for employers to comply with the July 1, 2017 deadline. As stated in the proposal, OSHA intends to issue a separate proposal to reconsider, revise, or remove other provisions of the prior final rule and to seek comment on those provisions in that separate proposal. The separate rulemaking will afford OSHA the time necessary to give full reconsideration to substantive issues concerning the May 6, 2016, final rule.

Many commenters also indicated that the proposed five-month delay would be more burdensome for establishments than a longer delay. Some commenters commented that a five-month delay

would create confusion among the regulated community, given that the rule could change after the proposed December 1, 2017, submission deadline or potentially be subject to even more delays in implementation (Ex. 1877, 1904, 1912, 1913). Several commenters also stated that a five-month delay could cause establishments to waste resources in an effort to comply with a regulation that could change later (Ex. 1905, 1911, 1912, 1913). For example, the U.S. Chamber of Commerce (USCC) commented that “[m]erely delaying the submission of these reports suggests OSHA will activate the requirement on December 1. Employers will begin preparing to submit their forms months ahead of that date. If OSHA then concludes, through the comprehensive rulemaking, to rescind this requirement, then employers will have spent their resources for no purpose” (Ex. 1911). The USCC and the Coalition for Workplace Safety (CWS) further commented that the four-month period between when the data collection Web site goes live and the proposed submission deadline is not long enough to make sure that the digital recordkeeping systems currently in use would be compatible with OSHA’s Web site (Ex. 1911, 1913). The American Coating Association (ACA) raised an additional concern about enterprises with many establishments, commenting that “corporate headquarters submitting reports on behalf of establishments within its ownership would face difficulty in collecting and electronically submitting forms by the proposed December 1, 2017 deadline” (Ex. 1905).

In response, OSHA agrees with the comment that a longer compliance delay could help to prevent further delays in implementation. OSHA has determined that the additional two-week delay to December 15, 2017 will help the Agency avoid further delays by ensuring that its electronic reporting system functions properly. OSHA disagrees that a more substantial delay is needed. OSHA notes that the collection of 2016 Form 300A is currently underway. As indicated in the May 6, 2016, final rule, OSHA will use the data collected to more efficiently focus its outreach and enforcement resources towards establishments that are experiencing high rates of occupational injuries and illnesses. OSHA intends to issue a separate proposal to reconsider, revise, or remove other provisions of the prior final rule and to seek comment on those provisions in that separate proposal. This final rule only delays the compliance date to submit employers’

2016 Form 300A data. In addition, employers were already required to complete, certify, and post the 2016 OSHA Form 300A by February 1, 2017, so OSHA does not expect employers to face difficulty collecting and electronically submitting the data from the 2016 OSHA Form 300A by December 15, 2017.

There were also many commenters who opposed the proposed delay of the initial submission deadline to December 1, 2017. Several commenters commented that a delay would result in a longer time before various groups (employers, employees, researchers, labor unions, etc.) could use the 2016 Form 300A injury and illness data to prevent future injuries and illnesses in the workplace (Ex. 1846, 1866, 1871, 1873, 1875, 1878, 1879, 1896, 1900, 1901, 1903, 1909, 1910). For example, Change to Win commented that the current final rule should be implemented as rapidly as possible to “aggressively reduce the nation’s unacceptable burden of workplace injury, illness, disability and death” (Ex. 1871). In a related concern, the American College of Occupational and Environmental Medicine commented that the rule should be enacted without delay because the injury and illness data could be used to help develop better health care policies and medical treatments for injured workers (Ex. 1880).

Other commenters commented that a delay would result in a longer time before employers would have incentives to create safer workplaces through the benchmarking of injury and illness rates (Ex. 1866, 1873, 1875, 1878, 1884, 1901). For example, Public Citizen commented that it did not support the proposed delay because the data collected under the final rule would motivate employers “to compare their safety records against other firms in their industry and set goals for improvement” (Ex. 1866).

Many commenters also opposed the proposed delay because it would result in a longer time before OSHA could use establishment-level injury and illness data to identify and target workplace hazards (Ex. 1866, 1871, 1873, 1875, 1878, 1879, 1884, 1896, 1900, 1901, 1903, 1909, 1910). For example, National Nurses United indicated that they were against the delay because “OSHA Form 300A data is vital in the effective targeting of OSHA enforcement and compliance assistance resources. OSHA uses this information to develop injury and illness prevention plans and to efficiently direct OSHA’s scarce resources to worksites that pose the most serious hazards for workers” (Ex.

1900). The Service Employees International Union expressed a related concern in its opposition to the delay, commenting that “workers and employers will not be able to enjoy the benefits of the regulation during the five month delay . . . [including] [i]mprovement in the quality of the information submitted to OSHA” (Ex. 1884). The Council of State and Territorial Epidemiologists and the International Brotherhood of Teamsters provided a similar comment (Ex. 1903, 1909).

In addition to the above concerns related to occupational health and safety, other commenters indicated that the delay was not necessary for employers. Several commenters commented that there was no need for a delay given that the final rule did not impose any new recordkeeping requirements on employers (Ex. 1866, 1869, 1873, 1878, 1879, 1900, 1901, 1910). Some commenters also stated that a delay was not necessary because employers have already known about the requirements of the final rule for an ample amount of time (Ex. 1869, 1879, 1896, 1903).

Other commenters opposed the delay by noting that OSHA has provided no rationale or justification for the delay (Ex. 1873, 1878, 1900, 1901, 1903, 1909). For example, the Utility Workers Union of America commented that “[i]n its proposal, OSHA provides no justification for the proposed delay from July to December of this year” (Ex. 1901). Other commenters also opposed the delay on the ground that the part of the final rule subject to delay is already in effect and must therefore be enforced (Ex. 1879, 1900). The National Employment Law Project further commented that such a “non-enforcement policy would be, in effect, an Administrative Stay of this part of the rule, in violation of the Administrative Procedure Act” (Ex. 1879). National Nurses United provided a similar comment (Ex. 1900).

In response to all of these comments, OSHA notes that compliance with the regulation was impossible, and OSHA must delay the initial submission deadline because the Agency did not make the electronic reporting system available before the July 1, 2017, submission deadline in the May 2016 final rule. OSHA agrees with commenters that the delay in the compliance date will cause an initial delay in the Agency’s ability to use the data for inspection and outreach purposes, but only on a temporary basis during this initial collection year. The Agency will be able to use the submitted

data for inspection and outreach purposes after December 15, 2017.

B. The Final Rule

OSHA concludes the appropriate course of action is to delay the compliance date to December 15, 2017. OSHA agrees with those commenters supporting a delay of the initial submission deadline because OSHA did not make the electronic reporting system available before the July 1, 2017, submission deadline in the May 2016 final rule. OSHA also agrees with commenters that employers will need sufficient time to learn and understand the reporting requirements and electronic reporting system, especially during the initial year of the data collection. OSHA believes the four-month period between the launch of the data collection system on August 1, and a compliance date of December 15, will provide employers sufficient time to provide the required data to OSHA. As noted above, OSHA has delayed by two weeks the proposed compliance date of December 1, 2017, to compensate for the time employers were unable to access the ITA in August. OSHA also has determined that this two-week delay will allow the Agency to avoid future delays by ensuring that the electronic reporting system functions properly.

OSHA does not agree with commenters who called for a substantially longer delay. OSHA reiterates that it intends to issue a separate proposal to reconsider, revise, or remove other provisions of the prior final rule and to seek comment on those provisions in that separate proposal; this final rule only delays the compliance date to submit employers' 2016 Form 300A data. The separate rulemaking will afford OSHA the time necessary to give full reconsideration to substantive issues concerning the May 6, 2016, final rule.

OSHA also notes, as above, that employers will have the same four months' worth of time with the delayed date as they would have had with the original date. In addition, OSHA notes that the original final rule was published in May 2016 and that file specifications for electronic submission have been available on the OSHA Web site since February 2017.

Finally, OSHA notes that employers were already required to complete, certify, and post the 2016 OSHA Form 300A by February 1, 2017, so OSHA does not expect employers to have difficulty collecting and electronically submitting the data from the 2016 OSHA Form 300A by December 15, 2017. On August 1, the first day the system launched, employers created 668

accounts, registered 1,000 establishments, and completed the submission of calendar year 2016 data from 919 OSHA Form 300As. OSHA believes that the four months from the launch date of August 1, 2017, to the new delayed deadline of December 15, 2017, provide ample time for employers to submit their 2016 data and for the agency to conduct additional outreach to employers to inform them of their obligations.

OSHA's August 1, 2017, launch of the electronic reporting system moots the comments calling for an immediate implementation of the reporting requirements because data collection began on that launch date. OSHA agrees with commenters that the delay in the compliance date will cause an initial delay in the Agency's ability to use the data for inspection and outreach purposes, but only on a temporary basis during the initial collection year. The Agency will be able to use the submitted data after December 15, 2017.

III. Final Economic Analysis

Executive Orders 12866 and 13563 require that OSHA estimate the benefits, costs, and net benefits of proposed and final regulations. Executive Orders 12866 and 13563, the Regulatory Flexibility Act, and the Unfunded Mandates Reform Act also require OSHA to estimate the costs, assess the benefits, and analyze the impacts of certain rules that the Agency promulgates. Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

In the Preliminary Economic Analysis, OSHA proposed to delay the deadline for electronic submission of Form 300A data under the regulation from July 1, 2017, to December 1, 2017.

To calculate the private-sector cost for provisions in the current regulation impacted by the proposed delay of the first year's submission date from July 1, 2017 to December 1, 2017, OSHA subtracted costs not applicable to the proposed delay from the original private-sector cost of the final rule. The subtracted costs include the costs of familiarization and checking by unregulated establishments (both of which would have taken place after the

rule was published in May 2016), the costs of the non-discrimination provision (which became enforceable in 2016), and the costs of submission of case data (the OSHA Log data) (which is not required until 2018). This yields a cost of \$4,845,365 per year. This cost represents the cost of electronically submitting the required 2016 information from the OSHA Form 300A in 2017. The affected employers have already gathered and recorded this information, as required by various provisions of part 1904.

This delay only affects costs for 2017, because the delay does not modify the deadlines for electronic submission in subsequent years. Thus, the only cost savings associated with this change are for delaying the deadline for the electronic submission of previously-recorded data by five-and-one-half months, from July 1, 2017 to December 15, 2017.

The cost savings of the five and one half month delay are estimated based on the interest that can now be earned on the funds involved while the report for the first year is delayed.¹ At a 3-percent discount rate, this results in a one-time cost savings of \$65,201, or \$7,644 per year annualized over 10 years. At a 7-percent discount rate, this results in a one-time cost savings of \$147,950, or \$21,065 per year annualized over 10 years. OSHA requested comments on these cost savings calculations but did not receive any public comments.

The Agency notes that it did not include an overhead labor cost in the Final Economic Analysis (FEA) for this rule, and all costs of this final rule are labor costs. OSHA did not receive any comments on the use of overhead costs in the Preliminary Economic Analysis for this delay. It is important to note that there is not one broadly accepted overhead rate and that the use of overhead to estimate the marginal costs of labor raises a number of issues that should be addressed before applying overhead costs to analyze the costs of any specific regulation. There are several approaches to look at the cost elements that fit the definition of overhead, and there are a range of overhead estimates currently used within the federal government—for example, the Environmental Protection Agency has used 17 percent,² and

¹ The entire derivation is as follows: OSHA begins with a current private sector cost of the original rule of \$4,845,365 times the discount rate value of the delay of $(1+d)^{-t} - ((5.5)/12)$. OSHA then subtracts this value (which is \$4,837,917 at 3 percent) from the full value of \$4,845,365. This results in a difference of \$7,644 in annualized costs.

² Cody Rice, U.S. Environmental Protection Agency, "Wage Rates for Economic Analyses of the Toxics Release Inventory Program," June 10, 2002.

government contractors have been reported to use an average of 77 percent.³⁴ Some overhead costs, such as advertising and marketing, may be more closely correlated with output than with labor. Other overhead costs vary with the number of new employees. For example, rent or payroll processing costs may change little with the addition of 1 employee in a 500-employee firm, but may change substantially with the addition of 100 employees. If an employer is able to rearrange current employees' duties to implement a rule, then the marginal share of overhead costs such as rent, insurance, and major office equipment (e.g., computers, printers, copiers) would be very difficult to measure with accuracy (e.g., computer use costs associated with two hours for rule familiarization by an existing employee).

If OSHA had included an overhead rate when estimating the marginal cost of labor, without further analyzing an appropriate quantitative adjustment, and adopted for these purposes an overhead rate of 17 percent on base wages, as was done in a sensitivity analysis in the FEA in support of OSHA's 2016 final rule on Occupational Exposure to Respirable Crystalline Silica, the base wages would increase annualized cost savings by approximately \$1,299 per year using a 3-percent discount rate and by \$3,581 a year using a 7-percent discount rate.

As noted below, OSHA has stated that the data submission requirements of the original final rule would lead employers to increase workplace safety and health; although the costs of the safety- and health-improving actions have not been quantified, the savings associated with a delay of such costs would be analogous to those calculated for quantified costs.

Table 1 summarizes the annualized and one-time cost savings.

TABLE 1—ANNUALIZED AND ONE-TIME COST SAVINGS⁵

Cost savings method	Annualized savings	One time cost savings
3-Percent Discount Rate ...	\$7,644	\$65,201
7-Percent Discount Rate ...	21,065	147,950

OSHA did not quantify the benefits of the May 2016 final rule. In the economic analysis of the final rule, OSHA stated that the rule would improve OSHA's

ability to identify, target, and remove safety and health hazards, thereby preventing workplace injuries, illnesses, and deaths. In addition, OSHA stated that the data submission requirements of the final rule would improve the quality of the information submitted and lead employers to increase workplace safety and health. OSHA also projected benefits associated with making the data publicly available. OSHA posits that this relatively brief delay in initial submissions will not have a meaningful effect on these benefits; however, because of the lack of quantification, there is some uncertainty as to what the impact will be. Other aspects of the final rule that OSHA determined would produce benefits, such as the non-discrimination provision and the collection of case characteristic data (OSHA Forms 300, 301) from establishments with 250 or more employees, would not be altered by this proposed action.

As categorized in Section II, above, OSHA received some comments stating there would be a loss of benefits because of the delay. The benefits from the rule will still accrue, but with a delay of, at most, 5 months. In any case, OSHA must delay the initial submission deadline, because OSHA did not make the electronic reporting system available before the July 1, 2017 submission deadline in the May 2016 final rule. Establishments are still required to report their 2016 injury summaries in 2017, and this information will be available to OSHA, just with a short delay.

OSHA concludes that this delay of five months is both economically and technologically feasible. The delay meets both criteria of feasibility because the original rule was economically and technologically feasible without a five-month delay.

OSHA has considered whether this final rule will have a significant economic impact on small firms. As a result of these considerations, in accordance with section 605 of the Regulatory Flexibility Act, OSHA certifies that this final rule will not have a significant economic impact on a substantial number of small entities. Thus, OSHA did not prepare an initial regulatory flexibility analysis or conduct a SBREFA Panel.

IV. Executive Order 13771: Reducing Regulation and Controlling Regulatory Costs

Consistent with E.O. 13771 (82 FR 9339, February 3, 2017), OSHA has estimated the annualized cost savings over 10 years for this final rule to range from \$7,644 to \$21,065, depending on the discount rate. Therefore, this final rule is considered an E.O. 13771 deregulatory action. Details on the estimated cost savings of this rule can be found in the rule's economic analysis.

V. Paperwork Reduction Act

This final rule does not change the information collections already approved by OMB under control number 1218-0176.

List of Subjects in 29 CFR Part 1904

Health statistics, Occupational safety and health, Reporting and recordkeeping requirements.

Signed at Washington, DC, on November 20, 2017.

Loren Sweatt,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

Amendments to Standard

For the reasons stated in SUPPLEMENTARY INFORMATION above, OSHA amends part 1904 of chapter XVII of title 29 as follows:

PART 1904—RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

■ 1. The authority citation for part 1904 continues to read as follows:

Authority: 29 U.S.C. 657, 658, 660, 666, 669, 673, Secretary of Labor's Order No. 1-2012 (77 FR 3912, Jan. 25, 2012).

Subpart E—Reporting Fatality, Injury and Illness Information to the Government

■ 2. Revise § 1904.41(c)(1) to read as follows:

§ 1904.41 Electronic submission of injury and illness records to OSHA.

* * * * *

(c) *Reporting dates.* (1) In 2017 and 2018, establishments required to submit under paragraph (a)(1) or (2) of this section must submit the required information according to the table in this paragraph (c)(1):

inputs-used-in-ebbsa-opr-ria-and-pra-burden-calculations-august-2016.pdf.

⁵ All cost savings are in 2014 dollars. Costs are annualized over ten years.

³ Grant Thornton LLP, 2015 Government Contractor Survey. (<https://www.grantthornton.com/~media/content-page-files/public-sector/pdfs/surveys/2015/Gov-Contractor-Survey.ashx>).

⁴ For further examples of overhead cost estimates, please see the Employee Benefits Security Administration's guidance at <https://www.dol.gov/sites/default/files/ebbsa/laws-and-regulations/rules-and-regulations/technical-appendices/labor-cost>.

Submission year	Establishments submitting under paragraph (a)(1) of this section must submit the required information from this form/these forms:	Establishments submitting under paragraph (a)(2) of this section must submit the required information from this form:	Submission deadline
2017	300A	300A	December 15, 2017.
2018	300A, 300, 301	300A	July 1, 2018.

* * * * *
 [FR Doc. 2017-25392 Filed 11-22-17; 8:45 am]
 BILLING CODE 4510-26-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[WT Docket Nos. 12-40 and 10-112; RM-11510, RM-11660; FCC 17-27]

Cellular Service, Including Changes in Licensing of Unserved Area

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Federal Communications Commission (Commission) announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection requirements associated with the Commission’s *Second Report and Order and Report and Order*, WT Docket Nos. 12-40 and 10-112, RM 11510 and 11660, FCC 17-27, including implementation of modified collection requirements on FCC Form 601, FCC Application for Radio Service Authorization. This document is consistent with the *Second Report and Order and Report and Order*, which stated that the Commission would publish a document in the **Federal Register** announcing OMB approval and the effective date of the requirements.

DATES: 47 CFR 22.317, 22.911(a) through (c), 22.913(a), (c), and (f), 22.947, and 22.953(c), published at 82 FR 17570, April 12, 2017, and revised FCC Form 601, FCC Application for Radio Service Authorization, are effective on December 1, 2017.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Cathy Williams, *Cathy.Williams@fcc.gov*, (202) 418-2918.

SUPPLEMENTARY INFORMATION: This document announces that, on October 2, 2017, OMB approved revised FCC Form 601, FCC Application for Radio Service Authorization, and the revised information collection requirements contained in the Commission’s *Second Report and Order and Report and*

Order, FCC 17-27, published at 82 FR 17570, April 12, 2017. The OMB Control Numbers are 3060-0508 and 3060-0798. The Commission publishes this document as an announcement of the effective date of the requirements. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 1-C823, 445 12th Street SW., Washington, DC 20554. Please include the OMB Control Numbers, 3060-0508 and 3060-0798, in your correspondence. The Commission will also accept your comments via email at *PRA@fcc.gov*.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the Commission is notifying the public that it received OMB approval on October 2, 2017, for the revised FCC Form 601, FCC Application for Radio Service Authorization, and the revised information collection requirements contained in the Commission’s rules at 47 CFR 22.317, 22.911(a) through (c), 22.913(a), (c), and (f), 22.947, and 22.953(c). Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Numbers are 3060-0508 and 3060-0798.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104-13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060-0508.
OMB Approval Date: October 2, 2017.

OMB Expiration Date: October 31, 2020.

Title: Parts 1 and 22 Reporting and Recordkeeping Requirements.

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities, Individuals or households, and State, Local or Tribal Governments.

Number of Respondents and Responses: 15,465 respondents; 16,183 responses.

Estimated Time per Response: 0.017-10 hours

Frequency of Response: Recordkeeping requirement; On occasion, quarterly, and semi-annual reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 154, 222, 303, 309 and 332.

Total Annual Burden: 4,406 hours.

Annual Cost Burden: \$19,138,350.

Privacy Act Impact Assessment: Yes.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information. The information to be collected will be made available for public inspection. Applicants may request materials or information submitted to the Commission be given confidential treatment under 47 CFR 0.459 of the Commission’s rules.

Needs and Uses: The Federal Communications Commission (Commission) received approval for a revision of OMB Control No. 3060-0508 from the Office of Management and Budget (OMB). The purpose of this revision was to obtain OMB approval of rules applicable to part 22 800 MHz Cellular Radiotelephone (“Cellular”) Service licensees and applicants, as adopted by the Commission in a *Second Report and Order and Report and Order (Second Report and Order)* on March 23, 2017 (WT Docket Nos. 12-40 and 10-112; RM Nos. 11510 and 11660; FCC 17-27). By the *Second Report and Order*, the Commission revised or eliminated certain licensing rules and modernized outdated technical rules applicable to the Cellular Service. Specifically, in addition to rule revisions that do not affect this information collection, the Commission revised the Cellular radiated power

rules, giving licensees the option to comply with effective radiated power limits based on power spectral density (PSD), and giving licensees the additional option to operate at PSD limits above a specified threshold (Higher PSD Limits) so long as certain conditions are met. One of these conditions, set forth in a new provision of the Cellular rules, is a requirement for written advance notification to public safety entities within a specified radius of the cell sites to be deployed at the Higher PSD Limits. This third-party disclosure requirement is an important component of the Commission's approach to protecting public safety entities from increased potential for unacceptable interference to their communications. Also of relevance to this information collection, the Commission eliminated the requirement for filings for certain changes to cell sites in a Cellular system.

The information collected is used to determine, on a case-by-case basis, whether or not to grant licenses authorizing construction and operation of wireless telecommunications facilities to common carriers. Further, this information is used to develop statistics about the demand for various wireless licenses and/or the licensing process itself, and occasionally for rule enforcement purposes.

OMB Control No.: 3060–0798.

OMB Approval Date: October 2, 2017.

OMB Expiration Date: October 31, 2020.

Title: FCC Application for Radio Service Authorization: Wireless Telecommunications Bureau; Public Safety and Homeland Security Bureau.

Form No.: FCC Form 601.

Respondents: Individuals or households; Business or other for-profit entities; Not-for-profit institutions; State, local, or Tribal Governments.

Number of Respondents and Responses: 253,320 respondents and 253,320 responses.

Estimated Time per Response: 0.5–1.25 hours.

Frequency of Response: Recordkeeping requirement, third party disclosure requirement, on occasion reporting requirement and periodic reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in 47 U.S.C. 151, 152, 154, 154(i), 155(c), 157, 201, 202, 208, 214, 301, 302a, 303, 307, 308, 309, 310, 311, 314, 316, 319, 324, 331, 332, 333, 336, 534, 535, and 554.

Total Annual Burden: 222,055 hours.

Total Annual Cost: \$71,306,250.

Nature and Extent of Confidentiality: In general there is no need for confidentiality with this collection of information.

Privacy Act Impact Assessment: Yes.

Needs and Uses: FCC Form 601 is a consolidated, multi-part application form that is used for market-based and site-based licensing for wireless telecommunications services, including public safety licenses, which are filed through the Commission's Universal Licensing System (ULS). FCC Form 601 is composed of a main form that contains administrative information and a series of schedules used for filing technical and other information. This form is used to apply for a new license, to amend or withdraw a pending application, to modify or renew an existing license, cancel a license, request a duplicate license, submit required notifications, request an extension of time to satisfy construction requirements, or request an administrative update to an existing license (such as mailing address change), request a Special Temporary Authority or Developmental License. Respondents are encouraged to submit FCC Form 601 electronically and are required to do so when submitting FCC Form 601 to apply for an authorization for which the applicant was the winning bidder in a spectrum auction.

The data collected on FCC Form 601 includes the FCC Registration Number (FRN), which serves as a "common link" for all filings an entity has with the FCC. The Debt Collection Improvement Act of 1996 requires entities filing with the Commission use an FRN.

On November 7, 2014, the Federal Communications Commission (Commission) released a Report and Order and Further Notice of Proposed Rulemaking (FCC 14–181) in WT Docket No. 12–40 to reform its rules governing the 800 MHz Cellular Radiotelephone (Cellular) Service (see 79 FR 76268). Subsequently, on March 24, 2017, the Commission released a *Second Report and Order* (FCC 17–27) in that same proceeding, revising certain technical and licensing rules applicable to the Cellular Service (see 82 FR 17570). In addition to rule revisions that do not affect this information collection, in the *Second Report and Order*, the Commission adopted revised radiated power rules, giving Cellular licensees the option to comply with effective radiated power limits based on power spectral density (PSD), and it made conforming changes to related technical provisions to accommodate PSD. The Commission retained, as an option, the existing radiated power limits (non-

PSD) and related technical requirements for Cellular licensees that either cannot or choose not to use a PSD model. The Commission also revised the definition and filing requirements for permanent discontinuance of operations, consistent with transitioning the Cellular Service from a site-based regime to one that is geographic-based.

The Commission received approval from OMB for revisions to its currently approved collection of information under OMB Control Number 3060–0798 to permit the collection of PSD-related technical information (in lieu of certain non-PSD technical information) for Cellular Service licensees that opt to use a PSD model for their systems, pursuant to the *Second Report and Order*. The OMB approval under this same Control Number 3060–0798 included a revised FCC Form 601, most notably a revised Schedule F of the Form, implementing the technical rule changes adopted in the *Second Report and Order* and thereby allowing licensees to use the Form to make filings regarding their licenses based on PSD operations. The revisions did not have any impact on the burden to complete FCC Form 601, including Schedule F of the Form.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–25413 Filed 11–22–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket No. 02–6; FCC 17–139]

Schools and Libraries Universal Service Support Mechanism

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission adopts, on an emergency basis, temporary rules to provide immediate relief to schools and libraries contending with the devastation caused by Hurricanes Harvey, Irma, and Maria, which struck the United States and its territories in August and September 2017. These temporary rules make available targeted support to schools and libraries that are forced to rebuild facilities and replace equipment damaged by the Hurricanes, and provide increased flexibility for eligible services to be restored through service substitutions. The rules also provide support for schools that have

increased their total student enrollments by 5 percent or more by taking in students displaced by the Hurricanes

DATES:

Effective date: The rules are effective on November 24, 2017.

Applicability date: These rules were applicable on October 30, 2017.

FOR FURTHER INFORMATION CONTACT:

Aaron Garza, Wireline Competition Bureau, (202) 418-1175 or TTY: (202) 418-0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order in CC Docket No. 02-6; FCC 17-139, adopted on October 26, 2017 and released on October 30, 2017. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 12th Street SW., Washington, DC 20554, or at the following Internet address: http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db1030/FCC-17-139A1.pdf.

I. Introduction

1. In this Order, the Federal Communications Commission (Commission) adopts, on an emergency basis, temporary rules to provide immediate relief to schools and libraries contending with the devastation caused by Hurricanes Harvey, Irma, and Maria (Hurricanes), which struck the United States and its territories in August and September 2017. These temporary rules make available targeted support to schools and libraries that are forced to rebuild facilities and replace equipment damaged by the Hurricanes, and provide increased flexibility for eligible services to be restored through service substitutions. We also make additional E-rate support available for schools that are incurring additional costs for eligible services, *e.g.*, for increased bandwidth demand, because they are serving students that have been displaced by the storms, even though they may not be contending with substantial physical damage caused by the Hurricanes. As explained herein, we find that the exigent circumstances faced by the schools and libraries contending with the consequences of these natural disasters constitute good cause to adopt these temporary rules without notice and comment.

II. Discussion

2. The temporary rules adopted in this Order provide relief to two categories of applicants: (a) Schools and libraries located in counties designated by FEMA as eligible for individual disaster assistance (Directly Impacted Areas);

and (b) schools that are incurring additional costs because their student counts have increased by 5 percent or more because they are serving displaced students.

3. For schools and libraries that are located in the Directly Impacted Areas, and that comply with the certification requirements described below, we make additional E-rate discounts available for the purchase of services and equipment that were disrupted, damaged, or destroyed by the Hurricanes by: (a) Opening a second Funding Year (FY) 2017 Application Window; and (b) resetting per-school, per-library five-year budgets for Category Two services. We also provide additional flexibility for these applicants to request service substitutions for a service or product that has been disrupted, destroyed or rendered unusable by the Hurricanes.

4. For schools that are incurring additional costs to provide services for students displaced by the Hurricanes, and that comply with the certification requirements described below, we make additional funding available to defray some of those increased costs by permitting the schools to file a supplemental FCC Form 471 to request additional E-rate discounts.

5. All relief granted by this Order is subject to the parameters and limitations stated herein, and conditioned on compliance with all E-rate program rules that are not specifically modified herein. To that end, we adopt additional measures to protect the Universal Service Fund from waste, fraud, and abuse. We also remind applicants that they remain subject to audits and investigations by the Universal Service Administrative Company (USAC) and the Commission, and will be held responsible for retaining all records related to any relief provided under this Order.

6. The Commission adopts temporary rules to assist schools and libraries that need to rebuild facilities and replace equipment destroyed by the Hurricanes, and take other steps necessary to reinstate E-rate eligible services for the students they serve. To ensure that the adopted measures reach those contending with the most severe damage caused by the Hurricanes, we limit the relief provided by these measures to schools and libraries located in the Directly Impacted Areas that certify that: (a) They are located in counties designated by FEMA as eligible for individual disaster assistance; (b) the schools or libraries incurred substantial damage to E-rate eligible services as a result of one or more of the Hurricanes; (c) any additional E-rate funding received pursuant to this Order will be

used solely to restore E-rate eligible services to the level of functionality that immediately preceded the Hurricanes; (d) other resources (*e.g.*, insurance, public assistance monies from FEMA, support from community organizations or donations) are not available to restore the E-rate eligible services to their prior functionality; and (e) additional E-rate funding requested pursuant to this Order will be returned to the Universal Service Fund if funding from other sources causes any E-rate funding disbursed to exceed the charges paid for restoring the E-rate eligible services. Schools and libraries that are located in the Directly Impacted Areas and submit the required certification are referred to herein as Directly Impacted Applicants.

7. Section 54.504(d) of the Commission's rules allows USAC to grant a request by an applicant to substitute a service or product for another where: (a) The service or product has the same functionality; (b) the substitution does not violate any contract provision or state or local procurement laws; (c) the substitution does not result in an increase in the percentage of ineligible services or functions; and (d) the applicant certifies that the requested change is within the scope of the controlling FCC Form 470. For Directly Impacted Applicants that need to replace a service or product that has been disrupted, destroyed, or rendered unusable by the Hurricanes, we modify this rule to exclude the requirement that the substituted service or product must have the same functionality as the service or product that it is replacing. This modification will allow Directly Impacted Applicants the maximum flexibility to substitute services based on their local needs without being constrained by categories of service or service types (*e.g.*, applicants may substitute Internet access service with internal connections and vice versa), so that they may use already approved E-rate funding to replace damaged or destroyed equipment and restore services, subject to the limitations stated herein. We believe this additional flexibility will allow schools and libraries, given their specific understanding of their circumstances, to use funding in ways that best meet their needs. The flexibility conferred by this measure effectively waives § 54.504(d)(1)(i) of the Commission's rules for Directly Impacted Applicants while keeping the remaining aspects of our service substitution rule intact. Directly Impacted Applicants must continue to ensure that a service substitution: (a) Does not violate any contract

provisions; (b) does not violate state or local procurement laws; (c) does not result in an increase in the percentage of ineligible services or functions; and (d) is within the scope of an FCC Form 470. Directly Impacted Applicants must also request approval of service substitutions by submitting a service substitution request to USAC.

8. The Hurricanes have caused widespread disruptions in service for schools and libraries in the Directly Impacted Areas, and some Directly Impacted Applicants may need to rebuild facilities and replace equipment to restore E-rate eligible services to their pre-Hurricane levels of functionality. Consistent with the E-rate program's mission to ensure that schools and libraries have access to high-speed broadband sufficient to support digital learning, we direct USAC to open a second FY 2017 application window to allow Directly Impacted Applicants to request additional E-rate discounts for the purchase of replacement products and services (Second FY 2017 Application Window), subject to the parameters and limitations in this Order.

9. *Second FY 2017 Application Window Dates.* Given the urgent need that many Directly Impacted Applicants have for funding to rebuild and restore eligible services, the Second FY 2017 Application Window shall open 14 days after the release of this Order and will remain open for 30 days. We find that this 30-day window, opening 14 days after the release date of this Order, will provide enough time for Directly Impacted Applicants participating in the Second FY 2017 Application Window to complete any necessary competitive bidding, per the requirements below, and apply for FY 2017 funding needed to restore essential E-rate eligible services.

10. We recognize that some Directly Impacted Applicants, particularly applicants in Puerto Rico and the USVI, may not be able to participate in the Second FY 2017 Application Window because they will still lack access to the electricity and communications networks required to do so. Directly Impacted Applicants contending with widespread destruction to property and surrounding facilities may also require additional time to assess the full extent of the damage they have incurred, and determine the resources they will need to replace and restore E-rate eligible services. We recognize that the relief provided in this Order may not address the needs of all Directly Impacted Applicants, and assure them that the Second FY 2017 Application Window does not mark the end of our efforts. We

direct the Wireline Competition Bureau (Bureau) to work with USAC in the coming months to formulate a plan for providing additional relief to Directly Impacted Applicants who are unable to participate in the Second FY 2017 Application Window, and may not be able to replace and restore E-rate eligible services through the additional measures adopted in this Order and the ordinary application process for FY 2018. When considering the form and timing of these additional measures, we direct the Bureau to take into consideration factors such as when the Directly Impacted Applicants regained access to electricity and other resources necessary to make effective use of E-rate eligible services, and how the additional measures will function within the overall administration of the program.

11. *Competitive Bidding.* Competitive bidding is a cornerstone of the E-rate program. Our competitive bidding rules ensure that applicants are informed of all the options available to them whenever they seek a new service contract, ensure that service providers have sufficient information to submit a responsive proposal, generate the most efficient pricing for eligible services, and guard against waste, fraud, and abuse. To ensure the most efficient use of the additional funds made available for the Second FY 2017 Application Window, and as a safeguard against waste, fraud, and abuse, we retain our competitive bidding rules for the Second FY 2017 Application Window with two limited modifications.

12. First, a Directly Impacted Applicant may submit an FCC Form 471 during the Second FY 2017 Application Window requesting E-rate discounts without initiating a new competitive bidding process for the requested services or equipment if the Directly Impacted Applicant: (a) Has already sought bids for the services or equipment by posting an FCC Form 470; (b) received a Funding Commitment Decision Letter (FCDL) from USAC approving an FY 2017 funding request that relied on that FCC Form 470, or has such an FY 2017 funding request pending; and (c) requests additional E-rate discounts during the Second FY 2017 Application Window to purchase the same services or equipment on substantially similar terms and conditions as the contract originated by the existing FCC Form 470. This modification is intended to expedite the restoration of services or the replacement of equipment that were already purchased by, and delivered to, Directly Impacted Applicants for FY 2017, but destroyed or otherwise affected by the Hurricanes. Directly

Impacted Applicants that wish to avail themselves of this option must submit the following information in the Narrative Section of the relevant FCC Form 471 funding request: (a) The identification numbers for the FY 2017 FCC Form 471 and funding request that previously relied on the FCC Form 470; (b) a statement confirming that the services or equipment for which the applicant previously requested E-rate discounts in FY 2017 were delivered prior to the Hurricanes, and subsequently disrupted, destroyed, or damaged by the Hurricanes; and (c) a statement confirming that the requested additional E-rate discounts are to replace those services or equipment by the pertinent service implementation deadline.

13. Second, for all other funding requests submitted during the Second FY 2017 Application Window, we modify the requirement that applicants wait to enter a contract with a service provider until 28 days have passed after posting an FCC Form 470. Specifically, we will require Directly Impacted Applicants that wish to seek additional E-rate discounts during the Second FY 2017 Application Window to wait only 14 days prior to selecting a service provider and filing an FCC Form 471 requesting E-rate support. We find that reducing the mandatory waiting period balances the need for quick and decisive action to restore E-rate eligible services to schools and libraries with our obligations to ensure the most efficient use of universal service funds and protect the program against waste, fraud, and abuse.

14. *Discount Rate.* Under the Commission's rules, eligible schools and libraries may receive discounts ranging from 20 percent to 90 percent of the pre-discount price of eligible Category One (C1) services and between 20 percent and 85 percent of the pre-discount price of eligible Category Two (C2) services, based on indicators of poverty, as well as rural or urban status. For the Second FY 2017 Application Window only, we increase the discount rate for all Directly Impacted Applicants to the maximum discount rate for both C1 and C2 services, excluding voice services. All Directly Impacted Applicants will, therefore, receive a 90 percent discount for C1 services, other than voice services, and an 85 percent discount for C2 services for these requests. We conclude that increasing the discount rate for Directly Impacted Applicants will provide needed funding to immediately assist such applicants with restoring E-rate eligible services.

15. E-rate applicants may request support for C2 services pursuant to our

rules that establish a pre-discount budget of \$150 per student over five years for schools, and a pre-discount budget of \$2.30 or \$5.00 per square foot for libraries depending on their location. It is up to each school and library to determine how to allocate funds from their C2 budgets over a five-year period. Five-year C2 budgets were first instituted in FY 2015. It is therefore possible that some schools and libraries had already expended all or most of their C2 budgets by the time the Hurricanes hit in August and September 2017. Accordingly, some Directly Impacted Applicants may have little to no funds remaining in their school and library budgets to replace internal connections destroyed by the Hurricanes.

16. The Commission has recognized the importance of ensuring that sufficient funding is available for school and library internal connections, such as wireless access points, to ensure that high-speed broadband connectivity is effectively distributed to classrooms. Accordingly, we reset the five-year C2 budgets for all Directly Impacted Applicants. For those Directly Impacted Applicants that request additional E-rate discounts for C2 services during the Second FY 2017 Application Window, those requests will start the five-year clock on their budgets. For all other Directly Impacted Applicants, the five-year clock will begin in the first year that they request E-rate discounts for C2 services after the effective date of this Order.

17. Some schools that are located in Directly Impacted Areas but did not incur substantial damage, or that are located outside of the Directly Impacted Areas, may be incurring additional costs due to an influx of displaced students (Indirectly Impacted Schools). The influx of additional students may increase the resource needs of the school, may increase a school's National School Lunch Program (NSLP) rate, or may affect a school's C2 budget. To assist these Indirectly Impacted Schools, and support the educational needs of students displaced by the Hurricanes, we will allow schools that certify that their student count has increased by 5 percent or more due to an influx of displaced students to submit a supplementary FCC Form 471 during the Second FY 2017 Application Window to request additional funding. Indirectly Impacted Schools requesting this additional funding must certify: (a) That their student count for FY 2017 has increased by 5 percent or more because of students displaced by the Hurricanes; (b) the number of students they served during the original FY 2017 Application

Window, the number of additional students they are serving as-of the Second FY 2017 Application Window, and their total student population as-of the Second FY 2017 Application Window; (c) that they experienced an associated increase in demand for services for which they have submitted an FY 2017 funding request; (d) that the additional funding requested is necessary to serve these additional, unanticipated needs; and (e) that funding is not available from another source (e.g., insurance, public assistance monies from FEMA, support from community organizations or donations) to cover the increased costs. We also require schools to maintain documentation in support of this increased number in accordance with our recordkeeping requirements.

18. Indirectly Impacted Schools requesting additional funds pursuant to this Order may avail themselves of the competitive bidding modifications established for the Second FY 2017 Application Window. We will carefully monitor the use of funds disbursed to ensure that all support is utilized in accordance with Commission rules and to ensure that service providers do not charge unjust or unreasonable rates. We reserve the right to recover any monies that are not used for their intended purposes or, upon review, that we determine were used wastefully.

19. We are committed to guarding against waste, fraud, and abuse. Although we establish the limited, temporary rules described herein, we adopt steps to ensure program integrity, including enhanced audit procedures. Except where noted herein, we apply all existing processes and procedures for applying for and receiving E-rate discounts. We will require USAC to recover funds that we discover were not used properly through its normal processes. We also direct USAC to incorporate into its processes appropriate safeguards and audit measures to prevent and detect waste, fraud, and abuse related to the particular provisions we adopt here. We emphasize that we retain the discretion to evaluate the use of monies disbursed through the E-rate program and to determine on a case-by-case basis that waste, fraud, or abuse of program funds occurred and that recovery is warranted. We remain committed to ensuring the integrity of the program and will continue to aggressively pursue instances of waste, fraud, or abuse under our own procedures and in cooperation with law enforcement agencies.

20. *Sunset of Temporary Rules.* We will reevaluate the temporary rule

changes adopted herein before the opening of the FY 2018 filing window. Absent further action by the Commission, the temporary rule changes adopted herein will not apply to future funding years, including FY 2018, except insofar as this order resets five-year C2 budgets for Directly Impacted Applicants. We believe that reevaluating the sufficiency and efficacy of these temporary rules is a necessary safeguard against waste, fraud, and abuse going forward.

21. *Record Retention.* We require any school, library, or consortium using the temporary rules adopted herein to maintain documentation in support of its filing in accordance with our recordkeeping requirements. Applicants and service providers relying on these temporary rules are responsible for maintaining records that demonstrate their need and eligibility to rely on the temporary rules, including records supporting their certification that they received substantial damage as a result of the Hurricanes.

22. *Audits.* All beneficiaries and service providers receiving E-rate money are subject to potential audit, and those that receive more than \$500,000 will automatically be audited by USAC to ensure the funds are used for their intended purposes. All eligible telecommunications carriers, service providers, or beneficiaries requesting support under these temporary rules shall be subject to audit or investigation by the Commission's Office of Inspector General or other authorized federal or state governmental agency and, upon request, must make available any documentation and records necessary to verify compliance with these rules.

23. *Necessary Resources.* We retain the requirement that applicants certify that they have secured access to all of the resources necessary to make effective use of the services purchased. Applicants eligible to request relief pursuant to this Order are cautioned that they may not request E-rate support for eligible services that they cannot actually use by the pertinent service implementation deadline because they do not have the required facilities, power, or other resources necessary to make effective use of the services.

24. *Prohibition on Free Services.* We retain the requirement that all applicants pay their entire non-discounted portion of the cost of any services or products received through E-rate. Our rules prohibit the provision of free services to an eligible entity by a service provider that is also providing discounted services to the entity. Moreover, our rules state that the provision of free services or products

unrelated to the supported service or product constitutes a rebate of the non-discount portion of the supported services.

25. Section 553 of the Administrative Procedures Act permits an agency to implement rules without public notice and opportunity for comment “when the agency for good cause finds . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.” The Commission’s rules additionally permit us to render an order effective upon release where good cause warrants. The Hurricanes have caused extensive damage in areas of Texas, Florida, and Georgia, and throughout Puerto Rico and the USVI, creating an urgent and immediate need for the relief provided by this Order. While we believe that public notice requirements are an essential part of our rulemaking process, the need for prompt attention to the victims and quick restoration of services presents good cause to forgo notice and comment on these limited, temporary rules and to make this Order effective immediately upon release. The temporary rules that we adopt herein constitute an important step in the Nation’s response to these natural disasters, as well as the ability of the E-rate program to fulfill its purpose of ensuring that schools and libraries have affordable access to the high-speed broadband necessary for students to succeed in their educational pursuits and beyond. Further, this Order does not mandate new burdens or obligations. Accordingly, no entity will be adversely affected by making the Order effective upon its release. We find, therefore, that good cause exists to forgo notice and comment on these rules and make the temporary rules adopted by this Order effective immediately upon the release date of this Order. We delegate authority to the Bureau to work with USAC to make the necessary programmatic changes to implement this Order.

26. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

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

reasons stated herein, we find good cause for the rule changes made by this Order to take effect upon the release of this Order, *see* 5 U.S.C. 808(2).

III. Ordering Clauses

28. Accordingly, *it is ordered* that, pursuant to the authority contained in sections 4(i), 4(j), 10, 201–205, 214, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 160, 201–205, 214, 254, 303(r), and 403 this Order *is adopted*, and the temporary rules *shall become effective* immediately upon release of this Order, pursuant to 5 U.S.C. 408, 553(d)(3); 47 CFR 1.103(a), 1.427(b).

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2017–25406 Filed 11–22–17; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 74

[MB Docket No. 07–294, MD Docket No. 10–234; FCC 16–1]

Promoting Diversification of Ownership in the Broadcasting Services; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Communications Commission (Commission) is correcting a final rule that appeared in the **Federal Register** on April 4, 2016. That document revised FCC Form 323, Ownership Report for Commercial Broadcast Stations, and FCC Form 323–E, Ownership Report for Noncommercial Broadcast Stations, and amended Sections 73.3615 and 74.797 of the Commission’s rules. This document corrects the final regulations by replacing references to “FCC Form 2100, Schedule 323” with “FCC Form 323” and replacing references to “FCC Form 2100, Schedule 323–E” with “FCC Form 323–E.”

DATES: Effective November 28, 2017.

FOR FURTHER INFORMATION CONTACT:

Christopher Clark, Industry Analysis Division, Media Bureau, FCC, (202) 418–2609. For additional information concerning the information collection requirements contained in the *Report and Order*, contact Cathy Williams at (202) 418–2918, or via the Internet at PRA@fcc.gov.

SUPPLEMENTARY INFORMATION: In FR Doc. 2016–04838 appearing on page 19431 in

the **Federal Register** on Monday, April 4, 2016, the following corrections are made:

§ 73.3615 [Corrected]

■ 1. Beginning on page 19459, in the third column, in § 73.3615, paragraphs (a) through (f) are corrected to read as follows:

“(a) The Ownership Report for Commercial Broadcast Stations (FCC Form 323) must be filed electronically every two years by each licensee of a commercial AM, FM, or TV broadcast station and any entity that holds an interest in the licensee that is attributable pursuant to § 73.3555 (each a “Respondent”). The ownership report shall be filed by December 1 in all odd-numbered years. Each ownership report shall provide all information required by, and comply with all requirements set forth in, the version of FCC Form 323 (including all instructions for the form and schedule) that is current on October 1 of the year in which the ownership report is filed. The information provided on each ownership report shall be current as of October 1 of the year in which the ownership report is filed. A Respondent with a current and unamended biennial ownership report (*i.e.*, an ownership report that was filed pursuant to this subsection) on file with the Commission that is still accurate and which was filed using the version of FCC Form 323 that is current on October 1 of the year in which its biennial ownership report is due may electronically validate and resubmit its previously filed biennial ownership report.

(b)(1) Each permittee of a commercial AM, FM or TV broadcast station and any entity that holds an interest in the permittee that is attributable pursuant to § 73.3555 (each a “Respondent”) shall file an ownership report on FCC Form 323 within 30 days of the date of grant by the FCC of an application by the permittee for original construction permit. Each ownership report shall provide all information required by, and comply with all requirements set forth in, the version of FCC Form 323 (including all instructions for the form and schedule) that is current on the date on which the ownership report is filed.

(2) Except as specifically noted below, each permittee of a commercial AM, FM or TV broadcast station and any entity that holds an interest in the permittee that is attributable pursuant to § 73.3555 (each a “Respondent”) shall file an ownership report on FCC Form 323 on the date that the permittee applies for a station license. Each ownership report shall provide all information required by, and comply with all requirements

set forth in, the version of FCC Form 323 (including all instructions for the form and schedule) that is current on the date on which the ownership report is filed. If a Respondent has a current and unamended ownership report on file with the Commission that was filed pursuant to paragraphs (b)(1) or (c) of this section, was submitted using the version of FCC Form 323 that is current on the date on which the ownership report due pursuant to paragraph (b)(2) is filed, and is still accurate, the Respondent may certify that it has reviewed such ownership report and that it is accurate, in lieu of filing a new ownership report.

(c) Each permittee or licensee of a commercial AM, FM or TV broadcast station and any entity that holds an interest in the permittee or licensee that is attributable pursuant to § 73.3555 (each a "Respondent"), shall file an ownership report on FCC Form 323 within 30 days of consummating authorized assignments or transfers of permits and licenses. Each ownership report shall provide all information required by, and comply with all requirements set forth in, the version of FCC Form 323 (including all instructions for the form and schedule) that is current on the date on which the ownership report is filed.

(d) The Ownership Report for Noncommercial Broadcast Stations (FCC Form 323-E) must be filed electronically every two years by each licensee of a noncommercial educational AM, FM or TV broadcast station and any entity that holds an interest in the licensee that is attributable pursuant to § 73.3555 (each a "Respondent"). The ownership report shall be filed by December 1 in all odd-numbered years. Each ownership report shall provide all information required by, and comply with all requirements set forth in, the version of FCC Form 323-E (including all instructions for the form and schedule) that is current on October 1 of the year in which the ownership report is filed. The information provided on each ownership report shall be current as of October 1 of the year in which the ownership report is filed. A Respondent with a current and unamended biennial ownership report (*i.e.*, an ownership report that was filed pursuant to this subsection) on file with the Commission that is still accurate and which was filed using the version of FCC Form 323-E that is current on October 1 of the year in which its biennial ownership report is due may electronically validate and resubmit its previously filed biennial ownership report.

(e)(1) Each permittee of a noncommercial educational AM, FM or TV broadcast station and any entity that holds an interest in the permittee that is attributable pursuant to § 73.3555 (each a "Respondent") shall file an ownership report on FCC Form 323-E within 30 days of the date of grant by the FCC of an application by the permittee for original construction permit. Each ownership report shall provide all information required by, and comply with all requirements set forth in, the version of FCC Form 323-E (including all instructions for the form and schedule) that is current on the date on which the ownership report is filed.

(2) Except as specifically noted below, each permittee of a noncommercial educational AM, FM or TV broadcast station and any entity that holds an interest in the permittee that is attributable pursuant to § 73.3555 (each a "Respondent") shall file an ownership report on FCC Form 323-E on the date that the permittee applies for a station license. Each ownership report shall provide all information required by, and comply with all requirements set forth in, the version of FCC Form 323-E (including all instructions for the form and schedule) that is current on the date on which the ownership report is filed. If a Respondent has a current and unamended ownership report on file with the Commission that was filed pursuant to paragraphs (e)(1) or (f) of this section, was submitted using the version of FCC Form 323-E that is current on the date on which the ownership report due pursuant to this subsection is filed, and is still accurate, the Respondent may certify that it has reviewed such ownership report and that it is accurate, in lieu of filing a new ownership report.

(f) Each permittee or licensee of a noncommercial educational AM, FM or TV broadcast station, and any entity that holds an interest in the permittee or licensee that is attributable pursuant to § 73.3555 (each a "Respondent"), shall file an ownership report on FCC Form 323-E within 30 days of consummating authorized assignments or transfers of permits and licenses. Each ownership report shall provide all information required by, and comply with all requirements set forth in, the version of FCC Form 323-E (including all instructions for the form and schedule) that is current on the date on which the ownership report is filed."

§ 74.797 [Corrected]

■ 2. Beginning on page 19460, in the third column, § 74.797 is corrected to read as follows:

"The Ownership Report for Commercial Broadcast Stations (FCC Form 323) must be electronically filed by December 1 in all odd-numbered years by each licensee of a low power television station or other Respondent (as defined in § 73.3615(a) of this chapter). A licensee or other Respondent with a current and unamended biennial ownership report (*i.e.*, a report that was filed pursuant to this subsection) on file with the Commission that is still accurate and which was filed using the version of FCC Form 323 that is current on October 1 of the year in which its biennial ownership report is due may electronically validate and resubmit its previously filed biennial ownership report. The information provided on each ownership report shall be current as of October 1 of the year in which the ownership report is filed. For information on filing requirements, filers should refer to § 73.3615(a) of this chapter."

Federal Communications Commission

Marlene H. Dortch,
Secretary.

[FR Doc. 2017-25443 Filed 11-22-17; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 74

[MB Docket No. 07-294, MD Docket No. 10-234, FCC 16-1]

Promoting Diversification of Ownership in the Broadcasting Services

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) approved, for a period of three years, amendments to the Commission's rules and revised filing procedures and changes to FCC Form 323 (Ownership Report for Commercial Broadcast Stations) and FCC Form 323-E (Ownership Report for Noncommercial Broadcast Stations), which the Commission adopted in the *Report and Order*, Promoting Diversification of Ownership in the Broadcasting Services, FCC 16-1. This document is consistent with the *Report and Order*, which stated that the Commission would publish a document in the **Federal Register** announcing OMB approval and the effective date of the rule amendments

and revised filing procedures and changes to Forms 323 and 323-E.

DATES: Amendments to 47 CFR 73.3615 and 74.797 and changes to FCC Forms 323 and 323-E, published at 81 FR 19431, April 4, 2016, are effective November 28, 2017.

FOR FURTHER INFORMATION CONTACT: Cathy Williams, *Cathy.Williams@fcc.gov*, (202) 418-2918.

SUPPLEMENTARY INFORMATION: This document announces that, on November 25, 2016, OMB approved, for a period of three years, amendments to sections 73.3615 and 74.797 of the Commission's rules and revised filing procedures and changes to FCC Form 323 (Ownership Report for Commercial Broadcast Stations) and FCC Form 323-E (Ownership Report for Noncommercial Broadcast Stations), which the Commission adopted in the *Report and Order*, FCC 16-1, published at 81 FR 19432, April 4, 2016. The OMB Control Numbers are 3060-0010 and 3060-0084. The Commission publishes this document as an announcement of the effective date of the amendments to sections 73.3615 and 74.797 of the Commission's rules and the revised filing procedures and changes to Forms 323 and 323-E. If you have any comments on the burden estimates listed below, or how the Commission can improve the collection and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 1-C823, 445 12th Street SW., Washington, DC 20556. Please include the OMB Control Numbers 3060-0010 and 3060-0084 in your correspondence.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval, on November 25, 2016, of amendments to sections 73.3615 and 74.797 of the Commission's rules and revised filing procedures and changes to FCC Form 323 (Ownership Report for Commercial Broadcast Stations) and FCC Form 323-E (Ownership Report for Noncommercial Broadcast Stations).

Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Numbers for Forms 323 and 323-E are 3060-0010 and 3060-0084, respectively.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104-13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060-0010.

OMB Approval Date: November 25, 2016.

OMB Expiration Date: November 30, 2019.

Title: Ownership Report for Commercial Broadcast Stations, FCC Form 323; Section 73.3615, Ownership Reports; Section 74.797, Biennial Ownership Reports.

Form Number: FCC Form 323.

Respondents: Business or other for-profit entities; not-for-profit institutions; State, Local, or Tribal Governments.

Number of Respondents and Responses: 4,340 respondents; 4,340 responses.

Estimated Time per Response: 1.5 to 2.5 hours.

Frequency of Response: On occasion reporting requirement; biennial reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for these collections are contained in 47 U.S.C. 151, 152(a), 154(i), 257, 303(r), 307, 309, and 310.

Total Annual Burden: 9,620 hours.

Total Annual Cost: \$10,093,220.

Nature and Extent of Confidentiality: FCC Form 323 collects two types of information from respondents: PII in the form of names, addresses, job titles and demographic information; and FCC Registration Numbers (FRNs).

The FCC/MB-1 SORN, which was approved on November 28, 2016 (81 FR 72047), covers the collection, purpose(s), storage, safeguards, and disposal of the PII that individual respondents may submit on Form 323, as required under the *Privacy Act of 1974*, as amended (5 U.S.C. 552a). The Commission is drafting a privacy statement to inform applicants (respondents) of the Commission's need to obtain the information and the protections that the Commission has in place to protect the PII.

FRNs are assigned to applicants who complete FCC Form 160 (OMB Control No. 3060-0917). Form 160 currently requires applicants for FRNs to provide their Taxpayer Information Number

(TIN) and/or Social Security Number (SSN). The FCC's electronic Commission Registration System (CORES) then provides each registrant with a CORES FRN, which identifies the registrant in his/her subsequent dealings with the FCC. This is done to protect the individual's privacy. Form 160 requires applicants for Restricted Use FRNs to provide an alternative set of identifying information that does not include the individual's full SSN: His/her full name, residential address, date of birth, and only the last four digits of his/her SSN. Restricted Use FRNs may be used in lieu of CORES FRNs only on broadcast ownership reports and only for individuals (not entities) reported as attributable interest holders. The Commission maintains a SORN, FCC/OMB-25, Financial Operations Information System (FOIS), to cover the collection, purpose(s), storage, safeguards, and disposal of the PII that individual respondents may submit on Form 160. Form 160 includes a privacy statement to inform applicants (respondents) of the Commission's need to obtain the information and the protections that the FCC has in place to protect the PII.

Privacy Act: The Commission is drafting a Privacy Impact Assessment (PIA) for the personally identifiable information (PII) that is covered by the system of records notice (SORN), FCC/MB-1, Ownership Reports for Commercial and Noncommercial Broadcast Stations. Upon completion of the PIA, it will be posted on the FCC's Web site, as required by the Office of Management and Budget (OMB) Memorandum, M-03-22 (September 22, 2003).

Needs and Uses: On January 20, 2016, the Commission released a *Report and Order*, *Second Report and Order*, and *Order on Reconsideration* in MB Docket Nos. 07-294, 10-103, and MD Docket No. 10-234 (*323 and 323-E Order*). The *323 and 323-E Order* refines the collection of data reported on FCC Form 323, Ownership Report for Commercial Broadcast Stations, and FCC Form 323-E, Ownership Report for Noncommercial Broadcast Stations. Specifically, the *323 and 323-E Order* implements a Restricted Use FRN (RUFN) within the Commission's Registration System (CORES) that individuals may use solely for the purpose of broadcast ownership report filings; eliminates the availability of the Special Use FRN (SUFN) for broadcast station ownership reports, except in very limited circumstances; prescribes revisions to Form 323-E that conform the reporting requirements for noncommercial educational (NCE)

broadcast stations more closely to those for commercial stations; and makes a number of significant changes to the Commission's reporting requirements that reduce the filing burdens on broadcasters, streamline the process, and improve data quality. These enhancements will enable the Commission to obtain data reflecting a more useful, accurate, and thorough assessment of minority and female broadcast station ownership in the United States while reducing certain filing burdens.

Licenses of commercial AM, FM, and full power television broadcast stations, as well as licensees of Class A and Low Power Television stations, must file FCC Form 323 every two years. Form 323 shall be filed by December 1 in all odd-numbered years. On September 1, 2017, the Commission's Media Bureau released an Order in MB Docket No. 07-294, DA 17-813, postponing the opening of the 2017 biennial filing window for the submission of broadcast ownership reports on FCC Forms 323 and 323-E and extending the 2017 filing deadline.

Biennial Ownership Reports shall provide information accurate as of October 1 of the year in which the Report is filed.

In addition, Licensees and Permittees of commercial AM, FM, and full power television stations must file Form 323 following the consummation of a transfer of control or an assignment of a commercial AM, FM, or full power television station license or construction permit; a Permittee of a new commercial AM, FM, or full power television station must file Form 323 within 30 days after the grant of the construction permit; and a Permittee of a new commercial AM, FM, or full power television broadcast station must file Form 323 to update the initial report or to certify the continuing accuracy and completeness of the previously filed report on the date that the Permittee applies for a license to cover the construction permit.

In the case of organizational structures that include holding companies or other forms of indirect ownership, a separate Form 323 must be filed for each entity in the organizational structure that has an attributable interest in the Licensee or Permittee.

OMB Control Number: 3060-0084.

OMB Approval Date: November 25, 2016.

OMB Expiration Date: November 30, 2019.

Title: Ownership Report for Noncommercial Educational Broadcast Stations, FCC Form 323-E; Section 73.3615, Ownership Reports.

Form Number: FCC Form 323-E.

Respondents: Not-for-profit institutions.

Number of Respondents and Responses: 2,636 respondents; 2,636 responses.

Estimated Time per Response: 1 to 1.5 hours.

Frequency of Response: On occasion reporting requirement; biennial reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for these collections are contained in 47 U.S.C. 151, 152(a), 154(i), 257, 303(r), 307, 308, 309, and 310.

Total Annual Burden: 3,867 hours.

Total Annual Cost: \$2,319,900.

Nature and Extent of Confidentiality: FCC Form 323-E collects two types of information from respondents: PII in the form of names, addresses, job titles and demographic information; and FCC Registration Numbers (FRNs).

The FCC/MB-1 SORN, which was approved on November 28, 2016 (81 FR 72047), covers the collection, purpose(s), storage, safeguards, and disposal of the PII that individual respondents may submit on Form 323-E, as required under the *Privacy Act of 1974*, as amended (5 U.S.C. 552a). The Commission is drafting a privacy statement to inform applicants (respondents) of the Commission's need to obtain the information and the protections that the Commission has in place to protect the PII.

FRNs are assigned to applicants who complete FCC Form 160 (OMB Control No. 3060-0917). Form 160 currently requires applicants for FRNs to provide their Taxpayer Information Number (TIN) and/or Social Security Number (SSN). The FCC's electronic Commission Registration System (CORES) then provides each registrant with a CORES FRN, which identifies the registrant in his/her subsequent dealings with the FCC. This is done to protect the individual's privacy. Form 160 requires applicants for Restricted Use FRNs to provide an alternative set of identifying information that does not include the individual's full SSN: His/her full name, residential address, date of birth, and only the last four digits of his/her SSN. Restricted Use FRNs may be used in lieu of CORES FRNs only on broadcast ownership reports and only for individuals (not entities) reported as attributable interest holders. The Commission maintains a SORN, FCC/ OMD-25, Financial Operations Information System (FOIS), to cover the collection, purpose(s), storage, safeguards, and disposal of the PII that individual respondents may submit on

Form 160. Form 160 includes a privacy statement to inform applicants (respondents) of the Commission's need to obtain the information and the protections that the FCC has in place to protect the PII.

Privacy Act: The Commission is drafting a Privacy Impact Assessment (PIA) for the personally identifiable information (PII) that is covered by the system of records notice (SORN), FCC/ MB-1, Ownership Reports for Commercial and Noncommercial Broadcast Stations. Upon completion of the PIA, it will be posted on the FCC's Web site, as required by the Office of Management and Budget (OMB) Memorandum, M-03-22 (September 22, 2003).

Needs and Uses: On January 20, 2016, the Commission released a *Report and Order, Second Report and Order, and Order on Reconsideration* in MB Docket Nos. 07-294, 10-103, and MD Docket No. 10-234 (*323 and 323-E Order*). The *323 and 323-E Order* refines the collection of data reported on FCC Form 323, Ownership Report for Commercial Broadcast Stations, and FCC Form 323-E, Ownership Report for Noncommercial Broadcast Stations. Specifically, the *323 and 323-E Order* implements a Restricted Use FRN (RUFN) within the Commission's Registration System (CORES) that individuals may use solely for the purpose of broadcast ownership report filings; eliminates the availability of the Special Use FRN (SUFN) for broadcast station ownership reports, except in very limited circumstances; prescribes revisions to Form 323-E that conform the reporting requirements for noncommercial educational (NCE) broadcast stations more closely to those for commercial stations; and makes a number of significant changes to the Commission's reporting requirements that reduce the filing burdens on broadcasters, streamline the process, and improve data quality. These enhancements will enable the Commission to obtain data reflecting a more useful, accurate, and thorough assessment of minority and female broadcast station ownership in the United States while reducing certain filing burdens.

On April 21, 2017, the Commission released an *Order on Reconsideration* in MB Docket No. 07-294 and MD Docket No. 10-23 (*323-E Reconsideration Order*). The *323-E Reconsideration Order* expands the option to use SUFRNs on Form 323-E. This action addresses several petitions for reconsideration of the *323 and 323-E Order* and properly balances the Commission's need to improve the

integrity and usability of its broadcast ownership data with the concerns raised in the petitions for reconsideration.

Licensees of noncommercial educational AM, FM, and television broadcast stations must file FCC Form 323-E every two years. Pursuant to the new filing procedures adopted in the *323 and 323-E Order*, Form 323-E shall be filed by December 1 in all odd-numbered years. On September 1, 2017, the Commission's Media Bureau released an Order in MB Docket No. 07-294, DA 17-813, postponing the opening of the 2017 biennial filing window for the submission of broadcast ownership reports on FCC Forms 323 and 323-E and extending the 2017 filing deadline. Biennial Ownership Reports shall provide information accurate as of October 1 of the year in which the Report is filed.

In addition, Licensees and Permittees of noncommercial educational AM, FM, and television stations must file Form 323-E following the consummation of a transfer of control or an assignment of a noncommercial educational AM, FM, or television station license or construction permit; a Permittee of a new noncommercial educational AM, FM, or television station must file Form 323-E within 30 days after the grant of the construction permit; and a Permittee of a new noncommercial educational AM, FM, or television station must file Form 323-E to update the initial report or to certify the continuing accuracy and completeness of the previously filed report on the date that the Permittee applies for a license to cover the construction permit.

In the case of organizational structures that include holding companies or other forms of indirect ownership, a separate Form 323-E must be filed for each entity in the organizational structure that has an attributable interest in the Licensee or Permittee.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2017-25408 Filed 11-22-17; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 150902809-7999-02]

RIN 0648-BF12

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Widow Rockfish Reallocation in the Individual Fishing Quota Fishery

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

ACTION: Final rule.

SUMMARY: Through this final rule, NMFS announces approval of a regulatory amendment to the Pacific Coast Groundfish Fishery Management Plan (FMP) to reallocate quota shares (QS) of widow rockfish in the Shorebased Individual Fishing Quota (IFQ) Program. In January 2011, NMFS implemented the trawl rationalization program, which includes an IFQ Program for limited entry (LE) trawl participants. At the time of implementation, the widow rockfish stock was overfished and QS were allocated to QS permit holders in the Shorebased IFQ Program (the Program) only to cover widow rockfish bycatch that may be associated with harvest of target species. Now that widow rockfish has been rebuilt, this action reallocates QS to initial recipients to reestablish a target widow rockfish fishery. The reallocation is based on a target species formula that more closely represents the fishing history of permit holders when widow rockfish was a targeted species. This final rule also removes the daily vessel limit for widow rockfish, allows the trading of widow rockfish QS, and sets a deadline for divestiture of excess QS should the reallocation of widow rockfish cause any QS permit holder to exceed an accumulation limit.

DATES: This rule is effective December 26, 2017, except for the amendment to § 660.140(d)(1)(ii)(A)(4), which will be effective from December 26, 2017 through December 31, 2018.

ADDRESSES: NMFS prepared an environmental assessment (EA), a Regulatory Impact Review (RIR), and a Final Regulatory Flexibility Analysis (FRFA), which is included in the Classification section of this final rule. NMFS also prepared an Initial Regulatory Flexibility Analysis (IRFA) for the proposed rule. Copies of the EA,

RIR, IRFA, FRFA and the Small Entity Compliance Guide are available from Barry A. Thom, Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115-0070; or by phone at 206-526-6150. Copies of the Small Entity Compliance Guide are available on the West Coast Region's Web site at <http://www.westcoast.fisheries.noaa.gov/>. Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to the West Coast Region and by email to OIRA_Submission@omb.eop.gov, or fax to (202) 395-7285.

FOR FURTHER INFORMATION CONTACT:

Keeley Kent, 206-526-4655, keeley.kent@noaa.gov.

SUPPLEMENTARY INFORMATION: This final rule modifies regulations to reallocate widow rockfish QS in the Pacific coast groundfish fishery trawl rationalization program and to allow the transfer of widow rockfish QS. The following sections describe: (1) The original allocation of widow rockfish under the trawl rationalization program, (2) rationale for why the Council selected the final preferred alternative (FPA), and (3) this final rule.

NMFS published a proposed rule for this action on June 29, 2016 (81 FR 42295). The comment period on the proposed rule ended on July 29, 2016. NMFS received two comment letters with 12 substantive comments. A summary of these comments and NMFS's responses are provided in the Comments and Responses section of this preamble. The preamble to the proposed rule provides more background and information on the history of initial quota share allocation, widow rockfish rebuilding, and the Council's decision to reallocate widow rockfish QS, as well as a description of the reallocation formula, eligibility, and the application process for reallocated widow rockfish QS. The preamble to the proposed rule also describes the timeline for trading widow rockfish QS, the deadline for divestiture should the reallocation of widow rockfish put any QS permit owner over an accumulation limit, and the removal of the daily vessel limit for widow rockfish.

Background on Allocations Under the Trawl Rationalization Program

The Pacific Coast Groundfish FMP specifies management measures for over 90 different species of rockfish, flatfish, roundfish, sharks, skates, and other species, in Federal waters off the West Coast states. Target species in the

commercial fishery include Pacific hake (whiting), sablefish, dover sole, and rockfish, which are harvested by vessels using primarily midwater and bottom trawl gear, but also fish pots and hook and line. The LE trawl fishery is managed under the trawl rationalization program, a catch share program, which was implemented through Amendment 20 to the FMP and corresponding implementing regulations at 50 CFR part 660 in January 2011. Amendment 20 established the trawl rationalization program that consists of: An IFQ program for the shorebased trawl fleet (including Pacific whiting and nonwhiting sectors), and cooperative programs for the at-sea mothership and catcher/processor trawl fleets (Pacific whiting only). Concurrently, Amendment 21 set long-term allocations for the LE trawl sectors of certain groundfish species.

In Amendment 20, the Council used different formulas to allocate overfished, non-overfished, and bycatch species. Allocations of QS for each species were made based on each LE permit's Pacific whiting trips and nonwhiting trips. For the QS allocated for nonwhiting trips, the allocation formula for non-overfished species (target species) was different from that used for overfished species. For target species (which, at the time did not include widow rockfish) individuals received allocations based on their LE permits' harvest history of those species during the 1994 through 2003 allocation period.

For overfished species, QS was distributed to each recipient to meet expected bycatch based on the recipient's target species QS allocation (bycatch species). Overfished species QS was allocated in proportion to the amount of target species QS a person received, taking into account area of fishing and likely bycatch rates. Using this approach, many individuals received very low initial allocations of overfished species even though they had significantly depended on targeting the species and had fished within harvest levels permissible at the time. Amendment 20 to the Pacific Coast Groundfish FMP states that when an overfished species is rebuilt, there may be a reallocation of QS in the Shorebased IFQ sector to facilitate the reestablishment of historic fishing opportunities.

Widow Rockfish Fishery

Widow rockfish was historically an important target species in the groundfish fishery, particularly for midwater trawl and bottom trawl vessels (see Section 1.4.1 of the EA). Vessels using midwater trawl gear take

widow rockfish both as bycatch on Pacific whiting targeted trips and as a strategy targeting on pelagic rockfish, in which widow rockfish is caught jointly with yellowtail rockfish. Widow rockfish is also caught along with other species on trips using bottom trawl gear.

Catches of widow rockfish peaked in 1981 at 26,938 metric tons (mt) (59,388,124 pounds), then declined as the stock became overfished (see Section 1.4.1 of the EA). Widow rockfish was declared overfished in 2001 and NMFS implemented measures to reduce catch of this and other rockfish species in the 2000s, including Rockfish Conservation Areas (RCAs) and area-based gear restrictions and trip limits. Widow rockfish was still considered overfished in 2011 when the Council and NMFS implemented the trawl rationalization program and thus widow rockfish was allocated using an overfished species formula. Therefore, the QS allocations purposely did not reflect the historical fishing efforts of fishermen who may have targeted widow rockfish before it was declared overfished. However, shortly after implementing the trawl rationalization program in 2011, NMFS and the Council received the results of a new assessment that indicated that widow rockfish was rebuilt. The results of the assessment also indicated that widow rockfish may never have been overfished.

Council Rationale for Its Final Preferred Alternative (FPA)

In April 2015, the Pacific Fishery Management Council (Council or PFMC) made a final recommendation to NMFS to reallocate the rebuilt widow rockfish stock to the Shorebased IFQ Program using a modified target species formula. The Council selected this alternative (Alternative 5) as its final preferred alternative (FPA) because this alternative best met the purpose and need of the action, which was to implement a policy that allows historical widow rockfish fishery participants to benefit from the renewed fishing opportunities through a direct reallocation rather than having to acquire widow rockfish QS on the open market.

NMFS has determined that the Council's recommendation to reallocate widow rockfish QS to the Shorebased IFQ Program using a modified target species formula is consistent with the Magnuson-Stevens Act (MSA), the Pacific Coast Groundfish FMP, and other applicable law. This determination is based on NMFS's review of the administrative record, including the Council's record, and NMFS's consideration of comments

received during the comment period for the proposed rule. After considering the required statutory factors and the goals and objectives of the trawl rationalization program and the Pacific Coast Groundfish FMP, NMFS has determined that the Council's recommended reallocation formula provides for a fair and equitable allocation to the Shorebased IFQ Program, including between and among the Pacific whiting and nonwhiting participants.

The Council recommended to NMFS, and NMFS is approving through this final rule, Alternative 5, a target species formula based on the formula used at the time of initial implementation of the trawl rationalization program. The Alternative 5 reallocation formula holds 10 percent of the total widow rockfish QS aside for the adaptive management program (AMP), divides a portion of the total widow rockfish QS (30 percent) equally among all participants (those owning LE permits in 2011), and allocates a portion of the total widow rockfish QS (60 percent) based on widow rockfish landings history, separately for Pacific whiting trip history (9 percent of the total widow rockfish QS) and nonwhiting trip history (51 percent of the total widow rockfish QS). Pacific whiting trips are defined as those trips where more than 50 percent of the catch is Pacific whiting.

The Council and NMFS balanced the use of the control date, investment and dependence in the fishery, potential disruption from reallocation, and the potential impacts on communities and determined that there are fundamental reasons to adopt the Council's recommendation, also known as the Council's final preferred alternative (FPA). The Council and NMFS selected Alternative 5 as the FPA due to its ability to quickly and efficiently reestablish the historic target fishery for widow rockfish by allocating to those participants who targeted widow rockfish during the historic target fishery period, represented by the years 1994–2002. The FPA is also most consistent with the directive established by Amendment 20 to the FMP to reestablish historic fishing opportunities when a stock is rebuilt.

Amendment 20 directs the Council to consider a direct reallocation for species that were under a rebuilding plan during initial allocation and subsequently have been rebuilt, as a means to more quickly reestablish targeting opportunities for those who had a history of participation in a target fishery. The Council and NMFS interpreted this Amendment 20

provision as a commitment to individuals and communities that historically harvested and invested in the fishery (see Section 2.3 of the EA). As a species becomes rebuilt, reallocating to those individuals would take into account historic fishing investment and dependence on those species. With respect to widow rockfish, there is an additional consideration in that stock assessments now indicate that widow rockfish was potentially never overfished. Had the species been declared rebuilt one management cycle earlier (or never declared overfished), widow rockfish would have been allocated in 2011 based on the Amendment 20 allocation formula for target species.

Absent a reallocation of widow rockfish QS, QS permit owners would continue to hold an amount of widow rockfish QS that reflected their bycatch needs rather than their target needs. In order to obtain enough QS to target widow rockfish, those permit owners interested in targeting widow rockfish would then have to purchase widow rockfish QS on the open market. This form of redistribution to enable the reestablishment of a target fishery without reallocation could take a long time and involve high transaction costs.

Control Date

Alternative 5 maintains the integrity of the control date, November 6, 2003, by not rewarding speculative fishing history that occurred after the control date. As described in detail in NMFS's final rule on the reconsideration of the initial allocation of Pacific whiting quota (78 FR 18879; March 28, 2013), the Council adopted and announced a control date in 2003 to reduce overcapitalization and end the race for fish. The Council sought to discourage speculative capitalization and discourage effort by putting participants on notice that any fishing history earned beyond 2003 may not count towards a future allocation system. During the development of Amendment 20, many participants commented on how the control date would affect their business decisions. NMFS acknowledges that the control date is not a guarantee that any specific period will count toward initial allocations. However, NMFS believes that recognizing the history and business decisions of those that interpreted the control date as signaling the end of the qualifying period is appropriate and consistent with the purposes of Amendment 20. While no mechanism exists to separate speculative from non-speculative effort following a control date, maintaining the control date does not reward

speculation that may have occurred to the detriment of those that honored the control date. Furthermore, as the control date provided adequate notice to those participants that chose to make further capital investments after the fact that those investments may not affect their allocations, it is not inconsistent with the MSA, unfair, or inequitable, to not reward that speculation by not incorporating that history.

Fairness and Equity

The MSA specifies that initial allocations must be "fair and equitable," and include consideration of current and historical harvests, employment in the harvesting and processing sectors, investments in and dependence upon the fishery, current and historical participation of fishing communities, the basic cultural and social framework of the fishery, including promoting the sustained participation of small fishing vessels and communities, and procedures to address concerns over excessive geographic concentration and prevent the inequitable concentration of privileges and excessive shares. NMFS finds that the Council's recommended Alternative 5 reallocation formula is a fair and equitable allocation to the Shorebased IFQ Program. Alternative 5 struck the best balance between achieving the Council's purpose and need for this action, as defined by Amendment 20, and minimizing disruption to existing QS holders, processors, and communities.

The Council and NMFS acknowledged that under widow rockfish reallocation there would be current QS permit owners who would gain or lose widow rockfish QS to varying degrees, depending on the reallocation alternative chosen. The Council considered a range of alternatives, on a spectrum of reallocation including no action and four action alternatives. Under widow rockfish reallocation (the Council's FPA, Alternative 5), compared to status quo: 63 of 128 eligible QS permits will lose widow rockfish QS, 63 will gain widow rockfish QS, and 2 will hold the same amount of widow rockfish QS. Specifically, Table 4–7 of the EA shows that currently, the maximum allocation of the total widow rockfish QS pool to an individual LE permit holder is 2.11 percent, the minimum allocation is 0.02 percent. Under Alternative 5, the maximum allocation to an individual LE permit holder will be 1.98 percent of the total widow rockfish QS pool and the minimum allocation will be 0.18 percent. For those that will receive more widow rockfish QS, the average increase will be 0.34 percent of the total widow

rockfish pool. For those that will receive less widow rockfish QS, the average decrease will be 0.34 percent of the total widow rockfish pool. As described above, all of the eligible permits will, at a minimum, be reallocated 0.177 percent of the total widow rockfish QS from the equal sharing portion of the reallocation formula, plus a portion from their landings history, if they had landings history. Despite the fact that 63 QS permits will lose widow rockfish QS under reallocation, this loss may be mitigated by the substantial increase in the widow rockfish annual catch limits (ACL) that has occurred for 2017 and 2018, which will result in significantly more QP for many permit holders than they have been issued in all prior years since the start of the trawl rationalization program.

Now that widow rockfish is no longer managed as a bycatch species under a rebuilding plan, the Shorebased IFQ Program's widow rockfish allocation has increased from 342.62 mt (755,348 pounds) in 2011, to 11,392.7 mt (25,116,604 pounds) in 2017. In 2018, the widow rockfish allocation to the Shorebased IFQ Program will be 10,661.5 mt (23,504,584 pounds). Consequently, with the reallocation, each QS permit owner eligible for a reallocated widow rockfish QS amount will receive a minimum of 41,602 quota pounds (QPs) in 2018 from the equal share portion of the formula for each LE permit history (0.177 percent). Every QS permit will be allocated more widow rockfish QP in 2018 than in any of the first 6 years of the Shorebased IFQ Program due to the increasing ACL.

Current and Historical Harvests

The Council's FPA, Alternative 5, directly incorporates current and historical harvests and strikes a balance between these two sometimes competing factors. The Alternative 5 formula uses historic widow rockfish fishing history to reallocate a portion of the widow rockfish QS to QS holders, and provided the greatest weight to widow rockfish history compared to the other alternatives. This portion of the formula most advantaged those participants with widow rockfish fishing history when widow rockfish was a target fishery.

The Alternative 5 formula also acknowledges more recent participation and history by equally allocating a portion of the QS to all QS permit owners eligible for reallocation. This moderates the effects of the formula on recent participants from the use of widow fishing history. Alternative 5, as with all the other alternatives, allocates QS to existing QS permit holders, and

not to other classes of participants, such as limited entry permit (LEP) holders, recognizing the investment that these participants made in either having a long history in the fishery or having made an investment by purchasing the history from those that did. These are current participants in the fishery, because widow rockfish QS has not changed hands since the initial allocation in 2011. See Amendment 20 for a more detailed discussion on how the Council decided to allocate to QS permit holders (75 FR 60868; October 1, 2010).

Although ultimately not selected, the Council considered alternatives that would have given more weight to recent fishing history and revenues for other groundfish species. It was not possible to use fishing history for the most recent catch of widow rockfish, because widow rockfish catches have been heavily depressed by its overfished status and measures to reduce its catch until only recently, so the Council considered groundfish revenues for 2003–2010. This was an advantage to those that had high total revenues because of other groundfish species, but at the expense of those more dependent on widow rockfish that could not effectively target it during that period.

Communities

This final rule will have effects on communities, which are described in the preamble to the proposed rule and in the EA and RIR. Section 4.4.3 of the EA notes that the estimated amount of QS redistributed among port communities is 17 percent. However, the EA also notes that due to the low ACL for widow rockfish during the first few years of the trawl rationalization program, community dependence on widow rockfish has been low across Washington, Oregon, and California. Therefore, NMFS does not expect that the geographic redistribution of QS will have a significant impact on communities. Additionally, the impacts of reallocation are not expected to be significant because widow rockfish comprises a small portion of the trawl groundfish fishery, and widow rockfish would be a small portion of the groundfish landings in any particular geographic area. Further, geographic distributions are likely to be driven more by the trading of QPs. While QS may be less fluid, the distribution among communities and implication of the FPA is harder to track because QS owners do not necessarily use their QS/QP in the communities in which they reside.

As discussed in Section 4.2 of the EA, over the long term, the reallocation of

QS is not expected to substantially affect the distribution of landings relative to status quo. However, there may be some short term variations if those receiving the allocations run their own harvesting or processing operations (and hence are more likely to use the QS in the areas of their own operations). Overall, changes in the distribution of widow rockfish QS among ports as a result of reallocation are small relative to some of the inter-port variations in landings observed to date for the overall groundfish fishery.

Investment and Dependence

In making its final recommendation, the Council took into consideration the investments of fishery participants and the relative dependence of Pacific whiting and nonwhiting participants, processors, and communities. The Alternative 5 formula strikes a balance between Pacific whiting and nonwhiting participants, because it provides an advantage to neither. Alternative 2a would have provided more advantage to Pacific whiting vessels at the expense of nonwhiting vessels, and Alternative 2b would have had the opposite effect due to the weighting of whiting versus nonwhiting trips. Rather than provide one group of participants an advantage over the other, the Council created and selected, as their FPA, Alternative 5 as the midpoint between the two. The Council also created an equal allocation portion of the QS that provided equal QS to those with and without widow history, and to Pacific whiting and nonwhiting vessels.

The Council also considered and incorporated the historic dependence of widow fishermen and the communities in which they reside, by making a portion of the allocation based on widow fishing history. Alternative 3 would have put greater emphasis on revenues when widow was not a target species and reflected the investment of those that were not targeting widow rockfish. This contradicted the Council's purpose and need and its overall policy, implemented through Amendment 20, of acknowledging the investment of those with fishing history for target species. Alternative 4 would have maintained existing allocations, emphasizing the dependence of those with more QP recently, but would have diluted the benefits of this action and the overall effectiveness of this action at achieving the Council's objectives.

Widow rockfish QS has not been transferable since the time of initial allocation in 2011 (except under U.S. court order), therefore, no investments in widow rockfish QS have occurred yet, other than initial investment in the

trawl LE permit through which initial allocations and the reallocation of widow rockfish QS were assigned. The initial allocation of widow rockfish QS was based on the expectation that recipients would be dependent on widow rockfish QS as bycatch to access target species allocations, rather than depend on it for the revenue generated by catching widow rockfish itself. For this reason, there has not been much dependence on widow rockfish QS for targeting needs since 2011; rather the vessels that depend on widow rockfish purchase or trade widow rockfish QP to meet their needs. With rebuilding, businesses have an opportunity to develop an economic reliance on widow rockfish QS for direct revenue (rather than as an input needed to access other species). When converted to ex-vessel revenue equivalents, widow rockfish QS is a relatively minor portion of the QS portfolios currently held by business entities. This rule may affect those vessels that regularly purchase widow rockfish QP for the purposes of directed fishing, by disrupting the existing trade relationships (as discussed in Section 3.3.1(b)(1) of the EA). However, NMFS assumes that these vessels would be able to seek out new trade relationships after the reallocation.

Overall employment is not expected to change through widow rockfish reallocation, but may be redistributed among firms, and geographically redistributed among communities. Geographic redistribution effects are expected to be greatest over the short term and diminish with time. The projected geographic reallocations did not vary substantially among reallocation alternatives.

Summary

The FPA, like all of the action alternatives considered, affects vessels, processors, vessel and processor employment, and communities to varying degrees indirectly through the allocations—except that vessel and processor owners may be directly affected to the degree that they acquired an initial allocation of QS due to their ownership of a trawl LE permit. Because the ACLs of widow rockfish have only recently increased enough to allow targeting, and the FPA would provide each QS permit owners more QP in 2018 than they received in any of the first 6 years of the program, the reallocation of widow rockfish QS is not expected to substantially disrupt recent activities nor is it expected to have significant adverse effects on recent investments. The Council and NMFS considered the moratorium on widow rockfish QS trading as providing a

strong signal of the impending reallocation, providing individuals an opportunity to anticipate widow rockfish QS reallocation as part of their recent investment planning.

The Council and NMFS considered expected impacts of the FPA on harvesters, processors, industry, investments, and communities, using the most recent data available, as reflected in the EA. The Council and NMFS determined that the FPA struck a balance between impacts to the Pacific whiting and nonwhiting fishery; and between re-establishing historic fisheries and the geographic distribution of impacts among the communities in Washington, Oregon, and California. Specifically, this final rule best reflects how widow rockfish would have been allocated at the start of the program if it had not been managed under a rebuilding plan at that time.

This action is part of an overall program designed to ensure that conservation objectives are met and to mitigate some of the distributional effects of those conservation measures. As compared to other action alternatives, the FPA fulfills the Council's purpose and need to reestablish the historic targeted widow rockfish fishery.

Description of This Final Rule

Below is a brief description of this final rule. For a more detailed description, please see the preamble of the proposed rule (81 FR 42295; June 29, 2016). This final rule will: (1) Reallocate QS to initial recipients based on a target species formula that will more closely represent the fishing history of permit owners when widow rockfish was a targeted species, (2) allow the trading of widow rockfish quota shares, (3) set a deadline for divestiture in case the reallocation of widow rockfish puts any QS permit owner over an accumulation limit, and (4) remove the daily vessel limit for widow rockfish since it is no longer an overfished species.

This final rule will reallocate widow rockfish QS. QS permit owners are only eligible for a reallocation of widow rockfish if they are one of the 128 original QS permit owners who initially received a QS permit in 2011 based on LE trawl permit ownership at that time. For those new QS permits to which NMFS administratively transferred widow rockfish QS based on a U.S. court order or due to the death of a QS holder, NMFS will reallocate widow rockfish QS directly to these new QS permits because the shares were transferred through a legal process to a beneficiary. The 10 shorebased Pacific

whiting processors who received initial QS permits with only an initial allocation of Pacific whiting are not eligible to receive reallocated widow rockfish QS. Past landings history associated with each LE trawl permit will accrue to the current QS permit owner who received initial QS for that LE permit, even if the LE trawl permit ownership has changed since 2011.

For purposes of the widow rockfish reallocation calculation, NMFS will use landings data from the Pacific States Marine Fisheries Commission's Pacific Fishery Information Network (PacFIN) database. The proposed rule published on June 29, 2016, put the public on notice that NMFS would freeze the PacFIN dataset to be used in calculating the reallocation of widow rockfish on July 27, 2016. QS permit owners were instructed to contact their state fisheries data staff if they had concerns about the accuracy of their data. NMFS notes that there were no changes to the widow rockfish landings in the database for any QS permit holder's fishing history. NMFS then extracted a dataset of the PacFIN database on July 27, 2016, and will use that dataset for the reallocation of widow rockfish. As there was a delay between the publication of the proposed rule and the final rule, NMFS reconfirmed with PacFIN that there were no changes to the data extract after the freeze.

After determining the new widow rockfish allocations, NMFS will mail prefilled applications and widow rockfish reallocation QS amounts to each eligible QS permit owner (calculated using the formula in this final rule). On the application, the applicant (the QS permit owner) must: (1) Indicate whether or not they accept NMFS's calculation of the reallocated widow rockfish QS for each LE trawl permit, (2) provide a written description of what part of the reallocation formula requires correction and credible information to support the request for correction if they do not accept the calculation, and (3) sign, date and declare that the information in the application is true, correct and complete. Complete, certified applications must be submitted to the NMFS West Coast Region (see **ADDRESSES**). NMFS will not accept or review any applications postmarked or received in person after the application deadline, and any QS permit owner who does not submit an application would not be eligible to receive reallocated widow rockfish QS. NMFS will not accept applications by email. NMFS will redistribute the shares from any incomplete or non-submitted applications to all other QS permit

owners who are eligible for a reallocation of widow rockfish QS in proportion to their reallocated widow QS amount.

Following review of an application, NMFS will issue an initial administrative determination (IAD). In the IAD, NMFS will inform the applicant whether or not their application for reallocated widow rockfish QS was approved. Applicants would have 60 calendar days from the date of the IAD to appeal the decision. If any appeals are received, NMFS will reallocate widow QS amounts in 2018 consistent with all of the IADs and await any action resulting from an appeal until January 1, 2019. This is because the timeline of an appeal would be unknown, and new allocations are most easily implemented at the start of a calendar year.

If an application is approved, the QS permit owner will receive a 2018 QS permit showing the new widow rockfish QS amount, and the new QS percentage would show in the associated QS account when updated in 2018. Under this final rule, NMFS has the authority to issue widow rockfish QP for 2018 to QS accounts under one of two processes, depending upon the timing of publication of this final rule. The first process would be that NMFS would deposit QP into accounts on or about January 1, 2018, based on the IAD. Alternatively, widow rockfish QP may be allocated in two steps to QS accounts. Under the two-step process, on or about January 1, 2018, NMFS would deposit QP based on the lesser of the initial allocation under Amendment 20 or the reallocation under this rule to each individual account. Then, after NMFS finalizes the IAD, NMFS would deposit additional QP to the QS account as necessary.

An additional effect of implementing the Council's recommendations, through this final rule, is that after reallocation, some QS permit holders may be required to divest of widow rockfish QS in order to be in compliance with the control limits. Control limits in the Shorebased IFQ Program cap the amount of QS or individual bycatch quota (IBQ) that a person, individually or collectively, may own or control. Amendment 20 and implementing regulations set individual control limits for each of the 30 IFQ species, including widow rockfish, as well as an aggregate limit of 2.7 percent across nonwhiting species (50 CFR 660.140(d)(4)(C)). The individual control limit for widow rockfish is 5.1 percent.

NMFS will allow the QS permit owner an adjustment period to hold the excess shares and divest. The

divestiture deadline is November 30 in the year widow rockfish QS becomes transferrable. If NMFS does not receive any appeals on the reallocation, widow QS would become transferrable in early 2018, and any QS permit owner who exceeded the control limit as the result of the reallocation will have until November 30, 2018, to divest of their excess holdings. After the appeal deadline has passed, NMFS will issue a public notice to notify QS permit holders of when trading may begin. If NMFS does receive one or more appeals, widow QS will become transferrable on or about January 1, 2019, and any QS permit owner who exceeded the control limit as the result of the reallocation would have until November 30, 2019, to divest of their excess holdings. QS trading occurs between January 1 through November 30 each year. Trading is halted in the month of December so that NMFS can set QP allocations based on the static year-end amount of QS and mail QS permits that are effective January 1 of the following year. This adjustment period will allow the permit owner to benefit from holding excess QS, and from the sale or gifting of such an excess, but they will be required to divest of their excess QS in a timely manner, consistent with existing regulatory procedures.

Through this final rule, NMFS also removes the daily vessel limit for widow rockfish since daily vessel limits were developed with the intent to apply only to overfished species. NMFS will remove the daily vessel limit for widow rockfish only, and will not change widow's annual vessel limit or the daily or annual vessel limits of any other species. This change will better reflect the status of widow rockfish as rebuilt, and allow fishermen to hold the full annual vessel limit at any time if they chose to do so, in line with every other non-overfished IFQ species.

Due to a delay in the development and publication of this final rule, many of the timelines associated with implementing this rulemaking have been updated since the proposed rule. Additionally, other deadlines are dependent on whether or not NMFS receives appeals on the reallocation of widow rockfish. NMFS will provide the affected public an updated list of deadlines in the Small Entity Compliance Guide (see **ADDRESSES**).

Response to Comments

The comment period on the proposed rule ended July 29, 2016. NMFS received two comment letters that included 12 substantive comments on the proposed rule, one from a law firm

representing a harvester/processor company, and one from a fisherman. Comments from both letters are addressed below.

Comment 1: One commenter supports a timely and fair reallocation of widow rockfish, the elimination of the moratorium on widow rockfish QS trading, and the removal of the overfished species daily vessel limit.

Response: NMFS agrees with the commenter that the reallocation of widow rockfish should be fair and timely. NMFS also agrees that trading widow rockfish QS is an important aspect of the trawl rationalization program. In some cases the moratorium on widow rockfish QS trading has prevented QS permit owners' ability to supplement their QS portfolio or retire out of the fishery. NMFS notes that this final rule, consistent with the proposed rule, specifies that any appeals will delay the QS transfer start date for widow rockfish QS in order to prevent trading of an amount that may be adjusted later through appeal. If no appeals are received, widow rockfish QS trading will begin in early 2018, following a public notice from NMFS. As discussed under the description of the final rule, if appeals are received, QS trading will begin January 1, 2019. Last, NMFS agrees that the overfished species daily vessel limit should be removed since widow rockfish is no longer considered an overfished species.

Comment 2: Both commenters assert that the reallocation does not adequately account for current harvests of, and present dependence on, widow rockfish.

Response: The Council and NMFS took into account current harvests of, and present dependence on, widow rockfish in coming to this final reallocation decision. The widow rockfish reallocation alternatives that the Council considered examined reallocating widow rockfish QS using catch history based on a wide range of years (1994–2010) that went as far back as possible to include historical widow rockfish harvests, given the best available scientific information on the groundfish trawl fleet prior to implementation of Amendment 20. Catch history from 2010 was the most recent considered in the reallocation alternatives the Council considered since it was the last year of catch history before the trawl rationalization program was implemented. The Council did not include years beyond 2010 in the allocation alternatives because the QS and resulting QP held by permit owners reflected bycatch needs instead of target fishery needs. Thus including post-2010 years was not consistent with the objective of the action, which is to

facilitate the re-establishment of historic target fishing opportunities. However, the Council and NMFS did consider more recent participation and harvest by using more recent information to assess the impacts of each alternative (in some cases information from 2014, 2015, or 2016, depending on the most recent year available for the relevant data set).

The Council considered but rejected from further analysis the alternative that would have based reallocation of QS solely on more recent participation (2003–2010) (Alternative 3) because it did not adequately meet the primary purpose and need for the action, which is to re-establish historic fishing opportunities (see Section 2.3 of the EA). In addition, Alternative 3 would have rewarded catch history after the control date and prior to the initial allocation of QS, potentially adversely impacting the effectiveness of future control dates.

While the Council ultimately did not select Alternative 3, components of the FPA do recognize recent participation. Under the FPA, 30 percent of the widow rockfish QS will be divided equally among all the QS accounts held by participants who owned a LE permit in 2011. This provides a benefit to more recent participants. Additionally, using LE permits as the basis for allocation places some weight on investment and dependence by entities that recently entered the fishery just before or after the end of the allocation history period and up until the time of initial allocation in 2011. This equal allocation element ensures that those with LE permits that had stronger participation after 2003 than before receive some widow QS allocation. The equal allocation alone will meet or exceed the bycatch needs of many.

Comment 3: One commenter stated that contrary to what is stated in the proposed rule, using the fishing history from 1994 to 2002 is not following the same methodology as was used in the initial allocation because the initial allocation methodology did not use data that was 15 to 23 years in the past.

Response: NMFS disagrees. By using the same fishing years (1994 to 2002), NMFS is following the original allocation methodology used in Amendment 20 to the FMP and providing consistency in the catch history used for this reallocation. While the fishing history years are now more dated, using the same range allows the Council and NMFS to preserve the snapshot of the trawl fisheries it created with Amendment 20.

Comment 4: One commenter asserted that the control date (November 6, 2003) used in this action is not applicable to

the reallocation of widow rockfish because there was no directed fishery for widow rockfish between 2002 and 2010. Therefore, there is no danger of rewarding speculative effort by using more recent years. Additionally, it's not reasonable for PFMC to consider reallocating other overfished species using the control date in the future due to the staleness of the control date.

Response: NMFS disagrees. First, the control date was determined to be a valid control by the District Court in *Pac. Dawn, LLC v. Pritzker*, No. C13–1419 TEH, 2013 WL 6354421 (N.D. Cal. Dec. 5, 2013), which the 9th Circuit affirmed, *Pac. Dawn LLC v. Pritzker*, 831 F.3d 1166, 1179 (9th Cir. 2016). Second, the Council considered and rejected using data from 2003 to 2010 for the reallocation because it did not adequately meet the primary purpose and need for the action, which is to re-establish historic fishing opportunities (Section 1.3 of the EA). Additionally, the Council noted, and NMFS agrees, that using landings from 2003 to 2010 would reward catch history after the control date, during a time when the stock was overfished, and prior to the initial allocation of QS, potentially adversely impacting the effectiveness of future control dates. However, NMFS notes that reallocating QS among current QS holders rather than another class of participants does take into account current investment in the fishery (in the form of the investments in LE permits as an asset and the subsequent holding of the QS which devolved from that investment).

Additionally, the EA notes in Section 2.3 that the Council stated this reallocation of widow QS was not necessarily a precedent for future reallocations of other currently overfished species. Widow QS trading had been frozen to facilitate reallocation in anticipation that the stock would soon be rebuilt and such an action has not been taken with regard to other overfished species. As noted in the EA in Section 2.3, it is likely that widow will be the only overfished species for which QS can be reallocated based on pre-catch share program historic harvest because the widow QS trading moratorium allows that QS to be tied back to those historic landings through the catch history of the vessel LE permits, which were used as the basis for establishing the initial allocations. This will not be possible for other overfished species since QS for those species has already been subject to trading, and tracking each of those trades across multiple transactions and QS owners for reallocation purposes likely would be unfeasible.

Comment 5: One comment asserts that NMFS's proposal to use two different catch history periods when reallocating widow rockfish is unlawful. This proposal would use the catch history from 1994 to 2003 for all buyback permits and for Pacific whiting landings history, but would drop the 2003 fishing year for nonwhiting landings history. The commenter alleges there is no legitimate explanation for differentiating between Pacific whiting and nonwhiting widow landings history in 2003 or for not including 2003 in the nonwhiting landings history.

Response: For the initial allocations of target (non-overfished) species under Amendment 20, the historical landing period was 1994–2003. NMFS and the Council used 2003 because it was when the control date was announced by the Council and NMFS. The EA notes in Section 2.1.2(b) that for the purposes of the widow rockfish reallocation, 2003 was left off the historic fishing period for nonwhiting trips because regulations were implemented in 2002 designed to discourage widow rockfish harvest (67 FR 10489; March 7, 2002). 2002 was the last full year widow rockfish was managed as a “target species” instead of an overfished species. Therefore, excluding 2003 from the historic fishing period was consistent with the intent of allowing historical directed fishery participants to benefit from the renewed fishing opportunities through a direct reallocation. Since only a few vessels made landings in 2003 and because the allocation formula calculates history based on share of the fleet's total catch, a relatively small amount of widow landed by a single LE permit could constitute a large portion of the fleet total for that year and have a disproportionate effect on the allocation for that LE permit. Therefore, 2003 is not included in the allocation formula for nonwhiting landings history.

Comment 6: Both commenters expressed concern that reallocating widow rockfish to current QS permit owners fails to recognize the widow rockfish fishing history associated with the LE permits because several LE permits have changed ownership since 2002.

Response: Based on the Council's action, NMFS will reallocate widow rockfish based on the LE permit and QS permit relationship described above because the LE permit ownership was severed from the QS permit ownership at the time QS permits became effective in 2011. After that time, LE trawl permits could be sold without any effect on the QS holdings, and QS percentages could be transferred without any effect on the LE permit. NMFS believes it is

likely that QS permit owners would not have sold their LE trawl permits if they thought they would not receive the reallocated widow rockfish QS, and similarly, that it is likely that any persons who purchased a LE trawl permit did not believe that they would receive any future QS as part of the purchase.

Past landings history associated with each LE trawl permit will accrue to the current QS permit owner who received initial QS for that LE permit, even if the LE trawl permit ownership has changed since 2011. For example, if the fictitious company XYZ Fishing owned two LE trawl permits in 2010: Permit A and Permit B, they would have received a QS permit (QS Permit #1) in 2011 with an initial issuance of QS that was based on the history of LE trawl Permits A and B. For the purposes of widow rockfish reallocation, the linkage between LE trawl Permits A and B and QS Permit #1 will remain in place, so that QS Permit #1 will be reallocated widow rockfish QS based on the history from LE trawl Permits A and B, regardless of who owns those LE trawl permits now. If XYZ Fishing sold both LE trawl permits in 2013, and therefore no longer owns them at the time widow rockfish is reallocated, the company would still receive the reallocated widow rockfish QS from LE Permits A and B to QS Permit #1.

Comment 7: One commenter stated that the reallocation would reduce his widow rockfish QS holdings, and that he will be forced to lease quota pounds.

Response: NMFS acknowledges that 65 of 128 original QS permit owners will receive decreased allocations of widow rockfish QS under the reallocation formula, while 64 of 128 original QS permit owners will receive increased allocations of widow rockfish QS under the reallocation formula. Table 4–7 of the EA shows that currently, the maximum allocation of the total widow rockfish QS pool to an individual LE permit holder is 2.11 percent, the minimum allocation is 0.02 percent. Under Alternative 5, the maximum allocation to an individual LE permit holder will be 1.98 percent of the total widow rockfish QS pool and the minimum allocation will be 0.18 percent. For those that will receive more widow rockfish QS, the average increase will be 0.34 percent of the total widow rockfish pool. For those that will receive less widow rockfish QS, the average decrease will be 0.34 percent of the total widow rockfish pool. Although these changes may affect some permit holders more than others, the ACL and annual Shorebased IFQ Program allocation have increased dramatically now that widow

rockfish has been rebuilt, meaning that the quota pound equivalent of each share is now worth more. For example, a permit owner who holds one percent of widow rockfish QS would have been allocated 7,553 pounds in 2011 and 2,790,730 pounds in 2017. This means that even with a decrease in an individual QS permit owner's widow rockfish QS under reallocation, the permit owner will still likely be able to meet their bycatch needs since each share is worth more than 350 times in terms of QP than at the time of initial allocation in 2011.

NMFS also notes that this final rule will allow the transfer of widow rockfish QS, which has been restricted since the implementation of the trawl rationalization program. The commenter would then be able to purchase widow QS on the open market to meet his needs.

Comment 8: One commenter said that the time allotted for QS permit owners to review and revise their widow rockfish history prior to extracting a dataset from the PacFIN database was not sufficient.

Response: NMFS disagrees. NMFS provided sufficient notification to QS permit owners to review their widow rockfish history prior to the publication of this final rule. Initially, QS permit owners had the opportunity to review their catch history, including for widow rockfish, when the original allocations for the trawl rationalization program were made in 2011. Specific to this rule, NMFS notified the public that QS permit owners should review, and if necessary revise their widow rockfish history in April 2016 at the Council meeting and again in the proposed rule, published on June 29, 2016 (81 FR 42295). The proposed rule stated a deadline of July 27, 2016, for the data extraction. According to information provided by the States, all data requests were completed within the timeframe provided and NMFS is unaware of any outstanding data issues. There were no requested modifications to landing information.

Comment 9: One commenter stated that the proposed rule will force QS permit holders to divest of widow rockfish QS, after NMFS already forced permit holders to divest in 2015. They allege that a second round of divestiture brings duplicative costs and is contrary to National Standards 7 and 8 of the MSA.

Response: NMFS agrees that under this final rule, any QS permit holders that exceed an aggregate control rule after the reallocation of widow rockfish QS will be required to divest. However, NMFS notes that under this final rule,

permit holders will have several months to divest and QS permit holders may sell their excess widow rockfish QS, which was allocated at no cost to the participant, thereby, allowing the participant to make a profit on the divestiture. Additionally, NMFS sent all eligible QS holders a preliminary notification of their widow rockfish QS reallocation amount when the proposed rule was published (81 FR 42295; June 29, 2016). This has provided QS holders over a year to determine whether they will need to divest or not under this final rule.

National Standard 7 of the MSA states that, "Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication." While the divestiture transaction may require some time investment on the part of the QS holder, selling QS that was allocated freely will only serve to provide a profit for the QS holder, thereby minimizing any costs associated. As the commenter noted, QS holders were previously required by Amendment 20 to divest any non-widow rockfish QS that exceeded an aggregate control rule. Due to the practicalities of the Council process and NMFS rulemaking, NMFS was not able to expedite the divestiture of widow rockfish QS required by this final rule with the divestiture required by Amendment 20 to the FMP.

National Standard 8 of the MSA requires that an FMP take into account the importance of fishery resources to fishing communities in order to provide for the sustained participation of such communities and minimize the adverse economic impacts on such communities. The EA explains that participation by vessels and first receivers in the widow rockfish fishery in all major participating areas (Coos Bay to Morro Bay, Astoria-Newport, and Bellingham-Ilwaco) during 2011–2014 was significantly lower than in 1996–1998 (Section 3.3.3). Overall, the EA notes that some reallocation of wealth and short term redistribution of economic activity among communities may occur under the action, however, any change would be minimal relative to overall community fishery and general economic activity (Section 4.4.3).

Comment 10: One comment stated that the proposed reallocation of widow rockfish QS would force fishery participants to divest QS exceeding control limits, including the nonwhiting aggregate control limit of 2.7 percent. The commenter noted its disagreement with the nonwhiting aggregate control limit of 2.7 percent.

Response: NMFS agrees that once this rule is effective, and widow QS is reallocated, some QS permit holders may be required to divest of some QS in order to comply with the aggregate control limits under Amendment 20 to the FMP. NMFS also notes that this final rule does not modify any of the aggregate control rules included in Amendment 20; therefore, this comment is outside the scope of this action.

Comment 11: One commenter alleged that the proposed rule rewards the speculative behavior of people who purchased permits in advance of allocation and subsequent reallocation.

Response: NMFS disagrees. This final rule recognizes the investments entities have made by way of purchasing permits in 2010 through the equal allocation portion of the reallocation design. However, there was no information that entities would have had prior to the initial allocation under the Shorebased IFQ Program that widow rockfish would be rebuilt, when it would be rebuilt, and that the Council would select the reallocation alternative included in this final rule. Therefore, NMFS does not believe this action rewards the speculative behavior described by the commenter.

Comment 12: One commenter stated that the proposed rule does not address the need for widow rockfish QP as bycatch in the yellowtail rockfish midwater trawl fishery.

Response: NMFS disagrees. This final rule will reallocate widow rockfish for the purposes of reestablishing a directed fishery. The main directed fishery for widow rockfish is the midwater trawl fishery, in which widow rockfish and yellowtail rockfish are commonly caught together as directed targets. Additionally, under this final rule, fishery participants will be able to purchase additional widow rockfish QS on the open market as a means to meet their bycatch needs.

Changes From the Proposed Rule

In the event that the widow rockfish reallocations are not finalized by January 1, 2018, NMFS will have authority, per temporary regulations added at 50 CFR 660.140(d)(1)(ii)(A)(4), to issue widow rockfish QP in two parts, first issuing interim QP to accounts on or about January 1, 2018, followed by the remaining QP, if applicable, after the IAD is finalized. Without this provision, if reallocations were not finalized on or about January 1, 2018, NMFS would have to wait to issue any widow rockfish QP until the IAD is finalized, meaning vessel accounts would have zero widow rockfish QP for some time early in 2018.

NMFS changed the deadline for QS permit owners to submit their widow rockfish reallocation applications from September 15, 2016, to 30 days after the final rule publishes, which is the effective date of this rule, December 26, 2017. The proposed rule and this final rule were delayed in publishing, so the September 15, 2016, deadline was no longer feasible.

After the application deadline, NMFS will mail initial administrative determinations (IAD) to applicants, and applicants will have 60 days from the time they receive their IAD to appeal. Because the application deadline change pushed the whole timeline back, the IAD appeal deadline will now fall in early 2018, instead of in 2016. Widow rockfish QS cannot be traded until after the IAD appeal deadline since any appeals may affect the amount of widow rockfish QS each QS permit owner was reallocated. If NMFS receives no appeals, widow rockfish QS trading would be allowed after notification from NMFS after the IAD appeal deadline. This is a change from the proposed rule, where NMFS had anticipated that the IAD appeal deadline would fall in 2016, and that if no appeals were received widow rockfish QS trading would be allowed on January 1, 2017. For this final rule, if no appeals are received, widow rockfish QS trading will be allowed in early 2018. If any IAD appeals are received, the start date for widow rockfish QS trading will be on January 1, 2019.

Last, NMFS had previously intended to put out a public notice in December 2016 detailing whether any appeals were received, when widow rockfish QS trading would start, and set the abandonment and divestiture deadlines (which are dependent on the date QS trading starts), but because of the date changes described above, NMFS will now publish a public notice detailing the same information after the IAD appeal deadline.

Classification

Pursuant to sections 304(b)(1)(A) and 305(d) MSA, the NMFS Assistant Administrator has determined that this rule is consistent with the FMP, other provisions of the MSA, and other applicable law.

The Council prepared an EA for this action and the NMFS Assistant Administrator concluded in a "Finding of No Significant Impact" that there will be no significant impact on the human environment as a result of this rule. The EA is available on the Council's Web site at <http://www.pcouncil.org/> or on NMFS's West Coast Groundfish Web site at http://www.westcoast.fisheries.noaa.gov/fisheries/groundfish_catch_shares/rules_regulations/widow_rockfish_reallocation.html.

[fisheries.noaa.gov/fisheries/groundfish_catch_shares/rules_regulations/widow_rockfish_reallocation.html](http://www.westcoast.fisheries.noaa.gov/fisheries/groundfish_catch_shares/rules_regulations/widow_rockfish_reallocation.html).

The Office of Management and Budget has determined that this action is not significant for purposes of Executive Order 12866.

NMFS prepared a final regulatory flexibility analysis (FRFA) under section 603 of the Regulatory Flexibility Act (RFA), which incorporates the initial regulatory flexibility analysis (IRFA). A summary of any significant issues raised by the public comments in response to the IRFA, and NMFS's responses to those comments, and a summary of the analyses completed to support the action are addressed below. NMFS also prepared an RIR for this action. A copy of the RIR and FRFA are available from NMFS (see **ADDRESSES**), and per the requirements of 5 U.S.C. 604(a), the text of the FRFA follows:

Final Regulatory Flexibility Analysis

As applicable, section 604 of the Regulatory Flexibility Act (RFA) requires an agency to prepare a final regulatory flexibility analysis (FRFA) after being required by that section or any other law to publish a general notice of proposed rulemaking and when an agency promulgates a final rule under section 553 of Title 5 of the U.S. Code. The following paragraphs constitute the FRFA for this action.

This FRFA incorporates the Initial Regulatory Flexibility Analysis (IRFA), a summary of any significant issues raised by the public comments, NMFS's responses to those comments, and a summary of the analyses completed to support the action. Analytical requirements for the FRFA are described in the RFA, section 604(a)(1) through (6). FRFAs contain:

1. A statement of the need for, and objectives of, the rule;
2. A statement of the significant issues raised by the public comments in response to the IRFA, a statement of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments;
3. The response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA) in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments;
4. A description and an estimate of the number of small entities to which the rule will apply, or an explanation of why no such estimate is available;
5. A description of the projected reporting, recordkeeping, and other

compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and

6. A description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

The "universe" of entities to be considered in a FRFA generally includes only those small entities that can reasonably be expected to be directly regulated by the action. If the effects of the rule fall primarily on a distinct segment of the industry, or portion thereof (e.g., user group, gear type, geographic area), that segment will be considered the universe for purposes of this analysis.

In preparing a FRFA, an agency may provide either a quantifiable or numerical description of the effects of a rule (and alternatives to the rule), or more general descriptive statements, if quantification is not practicable or reliable.

Need for and Objective of This Final Rule

In January 2011, NMFS implemented the trawl rationalization program (a catch share program) for the Pacific coast groundfish LE trawl fishery, which includes an individual fishing quota program for LE trawl participants. At the time of implementation, the widow rockfish stock was overfished and quota shares were allocated to quota share permit owners in the individual fishing quota program using an overfished species formula. Now that widow rockfish has been rebuilt, NMFS will reallocate quota shares to initial recipients based on a target species formula that more closely represents the fishing history of permit owners when widow rockfish was a targeted species. Through this final rule NMFS will allow the trading of widow rockfish quota shares, set a deadline for divestiture in case the reallocation of widow rockfish puts any QS permit owner over an accumulation limit, and remove the daily vessel limit for widow rockfish since it is no longer an overfished species.

Summary of Significant Issues Raised During Public Comment

NMFS published the proposed rule to reallocate widow rockfish on June 29, 2016 (81 FR 42295). An IRFA was prepared and summarized in the Classification section of the preamble to the proposed rule. The comment period on the proposed rule ended on July 29, 2016. NMFS received two comment letters that included 12 substantive comments on the proposed rule. None of these comments raise issues in response to the IRFA. The Chief Counsel for Advocacy of the SBA did not file any comments on the IRFA or the proposed rule.

Number and Description of Directly Regulated Small Entities

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide.

The SBA has established size criteria for all other major industry sectors in the United States, including fish processing businesses. A seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation, and employs 750 or fewer persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide. A wholesale business servicing the fishing industry is a small business if it employs 100 or fewer persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide.

The entities directly regulated by this action are QS permit holders. This rule will affect 128 QS permit owners who have received widow quota shares. When renewing their QS permits, permit owners are asked if they considered themselves small businesses based on the SBA definitions of small businesses provided above. Based on their responses, NMFS estimates that there are 110 small businesses affected by this rule.

Recordkeeping, Reporting, and Other Compliance Requirements

This rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA) and

which have been approved by the Office of Management and Budget (OMB) under OMB Control Number 0648-0620. This final rule will require that widow rockfish QS permit holders submit an application for the widow rockfish reallocation. NMFS estimates the public reporting burden for this collection of information to average one hour per form, including the time for reviewing instructions, reviewing data and calculations for reallocated widow rockfish QS, and completing the form.

Description of Significant Alternatives to This Final Rule That Minimize Economic Impacts on Small Entities

NMFS does not believe that small businesses as a class of QS holders will be negatively impacted by the proposed reallocation of widow rockfish QS. The reallocation options decrease widow QS holdings for some small businesses while increasing QS holdings for other small businesses, based on historical reliance on widow rockfish as a target species. Despite the fact that 63 QS permits will lose widow rockfish QS under reallocation, this loss may be mitigated by the substantial increase in the widow rockfish ACL that has occurred for 2017 and 2018, which will result in significantly more QP for many permit holders than they have been issued since rationalization. Trading of widow QS should also be beneficial to all small businesses as it gives these businesses the option to buy, sell, or lease their widow QS. Setting the divestiture deadline gives any affected entities time to sell off their excess QS. Eliminating the no-longer-needed daily vessel limit for widow rockfish provides more flexibility to small businesses.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide (the guide) was prepared. Copies of this final rule are available from the West Coast Regional Office (see ADDRESSES), and the guide will be included in a public notice sent to all members of the groundfish email group. To sign-up for the groundfish email group, click on the "subscribe"

link on the following Web site: http://www.westcoast.fisheries.noaa.gov/publications/fishery_management/groundfish/public_notices/recent_public_notices.html. The guide and this final rule will also be available on the West Coast Region's Web site (see ADDRESSES) and upon request.

Send comments regarding these burden estimates or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see ADDRESSES), and by email to OIRA_Submission@omb.eop.gov, or fax to 202-395-5806.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number. All currently approved NOAA collections of information may be viewed at: http://www.cio.noaa.gov/services_programs/prasubs.html.

Pursuant to Executive Order 13175, this rule was developed after meaningful collaboration with tribal officials from the area covered by the FMP. Under the MSA at 16 U.S.C. 1852(b)(5), one of the voting members of the Council must be a representative of an Indian tribe with federally recognized fishing rights from the area of the Council's jurisdiction. The regulations do not require the tribes to change from their current practices.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian Fisheries.

Dated: November 17, 2017.

Alan D. Risenhoover,

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

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 773 *et seq.*, and 16 U.S.C. 7001 *et seq.*

■ 2. In § 660.140:

- a. Add paragraph (d)(1)(ii)(A)(4);
- b. Revise paragraphs (d)(3)(ii)(B)(2) and (d)(4)(v);
- c. Add paragraph (d)(9); and
- d. Revise paragraph (e)(4)(i) to read as follows:

§ 660.140 Shorebased IFQ Program.

* * * * *

- (d) * * *
 (1) * * *
 (ii) * * *
 (A) * * *

(4) In 2018, NMFS may make deposits to QS accounts for widow rockfish in two parts. If NMFS elects to issue widow rockfish QP in two parts, on or about January 1, NMFS will deposit interim QP based on the lesser of the initial allocation or the reallocation. After NMFS finalizes the IAD of widow rockfish QS, NMFS will deposit additional QP to the QS account as necessary.

* * * * *

- (3) * * *
 (ii) * * *
 (B) * * *

(2) *Transfer of QS or IBQ between QS accounts.* Beginning January 1, 2014, QS permit owners may transfer QS (except for widow rockfish QS) or IBQ to another owner of a QS permit, subject to accumulation limits and approval by NMFS. Once the IAD deadline has been reached and no appeals to the reallocation of widow rockfish have been submitted, or on January 1, 2019, if such an appeal has been submitted, QS permit owners may transfer widow rockfish QS to another owner of a QS permit, subject to accumulation limits and approval by NMFS. NMFS will announce the QS transfer date for widow rockfish after the IAD appeal deadline. QS or IBQ is transferred as a percent, divisible to one-thousandth of a percent (*i.e.*, greater than or equal to 0.001%). QS or IBQ cannot be transferred to a vessel account. Owners of non-renewed QS permits may not transfer QS. QP in QS accounts cannot be transferred between QS accounts. NMFS will allocate QP based on the QS percentages as listed on a QS permit that was renewed during the previous October 1 through November 30 renewal period. QS transfers will be recorded in the QS account but will not become effective for purposes of allocating QPs until the following year. QS or IBQ may not be transferred between December 1 through December 31 each year. Any QS transaction that is pending as of December 1 will be administratively retracted. NMFS will allocate QP for the following year based on the QS percentages as of December 1 of each year.

* * * * *

- (4) * * *

(v) *Divestiture.* Accumulation limits will be calculated by first calculating the aggregate nonwhiting QS limit and then the individual species QS or IBQ control limits. For QS permit owners (including any person who has

ownership interest in the owner named on the permit) that are found to exceed the accumulation limits during the reallocation of widow rockfish QS, an adjustment period will be provided during which they will have to completely divest their QS or IBQ in excess of the accumulation limits. If NMFS identifies that a QS permit owner exceeds the accumulation limits in 2016 or beyond, the QS permit owner must divest of the QS or IBQ in excess of the accumulation limits according to the procedure provided under paragraph (d)(4)(v)(A) or (B) of this section. Owners of QS or IBQ in excess of the control limits may receive and use the QP or IBQ pounds associated with that excess, up to the time their divestiture is completed.

(A) *Divestiture and redistribution process in 2016 and beyond.* Any person owning or controlling QS or IBQ must comply with the accumulation limits, even if that control is not reflected in the ownership records available to NMFS as specified under paragraphs (d)(4)(i) and (iii) of this section. If NMFS identifies that a QS permit owner exceeds an accumulation limit in 2016 or beyond for a reason other than the reallocation of widow rockfish, NMFS will notify the QS permit owner that he or she has 90 days to divest of the excess QS or IBQ. In the case that a QS permit owner exceeds the control limit for aggregate nonwhiting QS holdings, the QS permit owner may abandon QS to NMFS within 60 days of the notification by NMFS, using the procedure provided under paragraph (d)(4)(v)(C) of this section. After the 90-day divestiture period, NMFS will revoke all QS or IBQ held by a person (including any person who has ownership interest in the owner names on the permit) in excess of the accumulation limits following the procedures specified under paragraphs (d)(4)(v)(D) through (G) of this section. All abandoned or revoked shares will be redistributed to all other QS permit owners in proportion to their QS or IBQ holdings on or about January 1 of the following calendar year, based on current ownership records, except that no person will be allocated an amount of QS or IBQ that would put that person over an accumulation limit.

(B) *Divestiture and redistribution process for the reallocation of widow rockfish.* Any person owning or controlling QS or IBQ must comply with the accumulation limits, even if that control is not reflected in the ownership records available to NMFS as specified under paragraphs (d)(4)(i) and (iii) of this section. If the reallocation of widow

rockfish puts any QS permit owner over an accumulation limit, the QS permit owner will have until November 30 of the year widow rockfish becomes transferrable to divest of their excess widow rockfish QS. In the case that a QS permit owner exceeds the control limit for aggregate nonwhiting QS holdings as the result of the reallocation of widow rockfish, the permit owner may abandon QS to NMFS by November 15 of the year widow rockfish becomes transferrable, using the procedure provided under paragraph (d)(4)(v)(C) of this section. NMFS will announce the QS transfer date for widow rockfish, the divestiture deadline, and the abandonment deadline after the widow reallocation IAD appeal deadline. After the widow rockfish reallocation divestiture period, NMFS will revoke all QS and IBQ held by a person (including any person who has ownership interest in the owner names on the permit) in excess of the accumulation limits following the procedures specified under paragraphs (d)(4)(v)(D) through (G) of this section. All abandoned or revoked shares will be redistributed to all other QS permit owners in proportion to their QS or IBQ holdings on or about January 1 of the following calendar year, based on current ownership records, except that no person will be allocated an amount of QS or IBQ that would put that person over an accumulation limit.

(C) *Abandonment of QS.* QS permit owners that are over the control limit for aggregate nonwhiting QS holdings may voluntarily abandon QS if they notify NMFS in writing by the applicable deadline specified under paragraph (d)(4)(v)(A) or (B) of this section. The written abandonment request must include the following information: QS permit number, IFQ species, and the QS percentage to be abandoned. Either the QS permit owner or an authorized representative of the QS permit owner must sign the request. QS permit owners choosing to utilize the abandonment option will permanently relinquish to NMFS any right to the abandoned QS, and the QS will be redistributed as described under paragraph (d)(4)(v)(A) or (B) of this section. No compensation will be due for any abandoned shares.

(D) *Revocation.* NMFS will revoke QS from any QS permit owner who exceeds an accumulation limit after the divestiture deadline specified under paragraph (d)(4)(v)(A) or (B) of this section. NMFS will follow the revocation approach summarized in the following table and explained under paragraphs (d)(4)(v)(E) through (G) of this section:

If, after the divestiture deadline, a QS permit owner exceeds	Then
An individual species control limit in <i>one</i> QS permit.	NMFS will revoke excess QS at the species level.
An individual species control limit across <i>multiple</i> QS permits.	NMFS will revoke QS at the species level in proportion to the amount the QS percentage from each permit contributes to the total QS percentage owned.
The control limit for aggregate nonwhiting QS holdings.	NMFS will revoke QS at the species level in proportion to the amount of the aggregate overage divided by the aggregate total owned.

(E) *Revocation of excess QS or IBQ from one QS permit.* In cases where a person has not divested to the control limits for individual species in one QS permit by the deadline specified under paragraph (d)(4)(v)(A) or (B) of this section, NMFS will revoke excess QS at the species level in order to get that person to the limits. NMFS will redistribute the revoked QS following the process specified in paragraph (d)(4)(v)(A) or (B) of this section. No compensation will be due for any revoked shares.

(F) *Revocation of excess QS or IBQ from multiple QS permits.* In cases where a person has not divested to the control limits for individual species across QS permits by the deadline specified under paragraph (d)(4)(v)(A) or (B) of this section, NMFS will revoke QS at the species level in proportion to the amount the QS percentage from each permit contributes to the total QS percentage owned. NMFS will redistribute the revoked QS following the process specified in paragraph (d)(4)(v)(A) or (B) of this section. No compensation will be due for any revoked shares.

(G) *Revocation of QS in excess of the control limit for aggregate nonwhiting QS holdings.* In cases where a QS permit owner has not divested to the control limit for aggregate nonwhiting QS holdings by the deadline specified under paragraph (d)(4)(v)(A) or (B) of this section, NMFS will revoke QS at the species level in proportion to the amount of the aggregate overage divided by the aggregate total owned. NMFS will redistribute the revoked QS following the process in paragraph (d)(4)(v)(A) or (B) of this section. No compensation will be due for any revoked shares.

* * * * *

(9) *Reallocation of widow rockfish QS.*
 (i) *Additional definitions.* The following definitions are applicable to paragraph (d)(9) of this section and apply only to terms used for the purposes of reallocation of widow rockfish QS:

(A) *Nonwhiting trip* means a fishing trip where less than 50 percent by weight of all fish reported on the state landing receipt is whiting.

(B) *PacFIN* means the Pacific Fisheries Information Network of the

Pacific States Marine Fisheries Commission.

(C) *Relative history* means the landings history of a limited entry trawl permit for a species, year, and area subdivision, divided by the total fleet history of the sector for that species, year, and area subdivision, as appropriate.

(D) *Whiting trip* means a fishing trip where greater than or equal to 50 percent by weight of all fish reported on the state landing receipt is whiting.

(ii) *Eligibility criteria for receiving reallocated widow rockfish QS.* Only the owner of an original QS permit (non-shoreside processor) to which QS was initially allocated in 2011 is eligible to receive reallocated widow rockfish QS based on the history of the limited entry trawl permit(s) that accrued to that QS permit, regardless of current limited entry permit ownership. For those new QS permits to which widow rockfish was administratively transferred by NMFS under U.S. court order, NMFS will reallocate widow rockfish QS directly to the new QS permit. Any limited entry trawl permit owners who did not submit an initial application for a QS permit will not be eligible to receive reallocated widow rockfish QS.

(iii) *Steps for widow rockfish QS reallocation formula.* The widow rockfish QS reallocation formula is applied in the following steps:

(A) First, for each limited entry trawl permit, NMFS will determine a preliminary QS allocation for nonwhiting trips.

(B) Second, for each limited entry trawl permit, NMFS will determine a preliminary QS allocation for whiting trips.

(C) Third, for each limited entry trawl permit, NMFS will combine the amounts resulting from paragraphs (d)(9)(iii)(A) and (B) of this section.

(D) Fourth, NMFS will reduce the total widow rockfish QS reallocated to QS permit owners by 10 percent as a set aside for AMP.

(iv) *Reallocation formula for specific widow rockfish QS amounts—(A) Reallocation formula rules.* The following rules will be applied to data for the purpose of calculating the initial reallocation of widow rockfish QS:

(1) Limited entry trawl permits will be assigned catch history or relative history based on the landing history of the vessel(s) associated with the permit at the time the landings were made.

(2) The relevant PacFIN dataset includes species compositions based on port sampled data and applied to data at the vessel level.

(3) Only landings of widow rockfish that were caught in the exclusive economic zone or adjacent state waters off Washington, Oregon, and California will be used for calculating the reallocation of widow rockfish QS.

(4) History from limited entry trawl permits that have been combined with a limited entry trawl permit that qualified for a C/P endorsement and which has shorebased permit history will not be included in the preliminary QS and IBQ allocation formula, other than in the determination of fleet history used in the calculation of relative history for limited entry trawl permits that do not have a C/P endorsement.

(5) History of illegal landings and landings made under nonwhiting EFPs that are in excess of the cumulative limits in place for the non-EFP fishery will not count toward the allocation of QS.

(6) The limited entry trawl permit's landings history includes the landings history of limited entry trawl permits that have been previously combined with that limited entry trawl permit.

(7) If two or more limited entry trawl permits have been simultaneously registered to the same vessel, NMFS will split the landing history evenly between all such limited entry trawl permits during the time they were simultaneously registered to the vessel.

(8) Unless otherwise noted, the calculation for the reallocation of widow rockfish QS under paragraph (d)(9) will be based on state landing receipts (fish tickets) as recorded in the relevant PacFIN dataset on July 27, 2016.

(9) For limited entry trawl permits, landings under provisional "A" permits that did not become "A" permits and "B" permits will not count toward the reallocation of widow rockfish QS, other than in the determination of fleet

history used in the calculation of relative history for permits that do not have a C/P endorsement.

(10) For limited entry trawl permits, NMFS will calculate the reallocation of widow rockfish QS separately based on whiting trips and nonwhiting trips, and will weigh each calculation according to a split between whiting trips and nonwhiting trips of 10.833 percent for whiting trips and 89.167 percent for nonwhiting trips, which is a one-time proportion necessary for the reallocation formula.

(B) *Preliminary widow rockfish QS reallocation for nonwhiting trips.* The preliminary reallocation process in paragraph (d)(9)(iii)(A) of this section follows a two-step process, one to allocate a pool of QS equally among all eligible limited entry permits and the other to allocate the remainder of the preliminary QS based on limited entry trawl permit history. Through these two processes, preliminary QS totaling 100 percent will be allocated. In later steps, this will be adjusted and reduced as indicated in paragraph (d)(9)(iii)(C) and (D) to determine the QS allocation.

(1) *QS to be allocated equally.* The pool of QS for equal allocation will be determined using the nonwhiting trip landings history from Federal limited entry groundfish permits that were retired through the Federal buyback program (*i.e.*, buyback program) (68 FR 42613, July 18, 2003). The nonwhiting trip QS pool associated with the buyback permits will be the buyback permit history as a percent of the total fleet history for the 1994 to 2003 nonwhiting trip reallocation period. The calculation will be based on total absolute pounds with no dropped years and no other adjustments. The QS pool associated with the buyback permits will be divided equally among all qualifying limited entry permits.

(2) *QS to be allocated based on each permit's history.* The pool of QS for allocation based on limited entry trawl permit nonwhiting trip history will be the QS remaining after subtracting out the QS allocated equally. This pool will be allocated to each qualifying limited entry trawl permit based on the permit's relative nonwhiting trip history from 1994 through 2002, dropping the three lowest years. For each limited entry trawl permit, NMFS will calculate relative history using the following methodology. First, NMFS will sum the permit's widow rockfish landings on nonwhiting trips for each year in the reallocation period. Second, NMFS will divide each permit's annual sum by the shoreside limited entry trawl fleet's annual sum. NMFS will then calculate a total relative history for each permit

by adding all relative histories for the permit together and subtracting the three years with the lowest relative history for the permit. The result for each permit will be divided by the aggregate sum of all total relative histories of all qualifying limited entry trawl permits. NMFS will then multiply the result from this calculation by the amount of QS in the pool to be allocated based on each permit's history.

(C) *Preliminary widow rockfish QS reallocation for whiting trips.* The preliminary reallocation process in paragraph (d)(9)(iii)(B) of this section follows a two-step process, one to allocate a pool of QS equally among all eligible limited entry permits and the other to allocate the remainder of the preliminary QS based on permit history. Through these two processes, preliminary QS totaling 100 percent will be allocated. In later steps, this will be adjusted and reduced as indicated in paragraph (d)(9)(iii)(C) and (D) to determine the QS allocation.

(1) *QS to be allocated equally.* The pool of QS for equal allocation will be determined using whiting trip landings history from Federal limited entry groundfish permits that were retired through the Federal buyback program (*i.e.*, buyback program) (68 FR 42613, July 18, 2003). The whiting trip QS pool associated with the buyback permits will be the buyback permit history as a percent of the total fleet history for the 1994 to 2003 whiting trip reallocation period. The calculation will be based on total absolute pounds with no dropped years and no other adjustments. The QS pool associated with the buyback permits will be divided equally among all qualifying limited entry permits.

(2) *QS to be allocated based on each permit's history.* The pool of QS for allocation based on each limited entry trawl permit's whiting trip history will be the QS remaining after subtracting out the QS allocated equally. Widow rockfish QS for this pool will be allocated pro-rata based on each limited entry trawl permit's whiting QS from whiting trips that was established in 2010 and used to allocate the whiting trip portion of whiting QS at the time of initial implementation in 2011. Pro-rata means a percent that is equal to the percent of whiting QS from whiting trips.

(D) *QS from limited entry permits calculated separately for nonwhiting trips and whiting trips.* NMFS will calculate the portion of widow QS a limited entry trawl permit receives based on nonwhiting trips and whiting trips separately, and will weight each preliminary QS in proportion to the one-time reallocation percentage

between whiting trips and nonwhiting trips of 10.833 percent and 89.167 percent, respectively.

(1) *Nonwhiting trips.* To determine the amount of widow QS for nonwhiting trips for each limited entry trawl permit, NMFS will multiply the preliminary QS for the permit from paragraph (d)(9)(iii)(A) of this section by the one-time reallocation percentage of 89.167 percent for nonwhiting trips.

(2) *Whiting trips.* To determine the amount of widow QS for whiting trips for each limited entry trawl permit, NMFS will multiply the preliminary QS for the permit from paragraph (d)(9)(iii)(B) of this section by the one-time reallocation percentage of 10.833 percent for whiting trips.

(E) *QS for each limited entry trawl permit.* For each limited entry trawl permit, NMFS will add the results for the permit from paragraphs (d)(9)(iv)(D)(1) and (D)(2) of this section in order to determine the total QS widow for that permit.

(F) *Adjustment for AMP set-aside.* NMFS will reduce the widow QS reallocated to each permit owner by a proportional amount that is equivalent to a reduction of 10 percent across all widow reallocation recipients' holdings as a set aside for AMP.

(v) *Widow rockfish QS reallocation application.* Persons may apply for issuance of reallocated widow rockfish QS by completing and submitting a prequalified application. A "prequalified application" is a partially pre-filled application where NMFS has preliminarily determined the landings history for each limited entry trawl permit that qualifies the applicant for a reallocation of widow QS. The application package will include a prequalified application with landings history. The completed application must be either postmarked or hand-delivered to NMFS within normal business hours no later than December 26, 2017. If an applicant fails to submit a completed application by the deadline date, they forgo the opportunity to receive reallocated widow rockfish QS and their percentage will be redistributed to other QS permit owners who submitted complete widow rockfish reallocation applications in proportion to their reallocated widow QS amount.

(vi) *Corrections to the application.* If an applicant does not accept NMFS's calculation in the prequalified application either in part or whole, the applicant must identify in writing to NMFS which parts the applicant believes to be inaccurate, and must provide specific credible information to substantiate any requested corrections.

The completed application and specific credible information must be provided to NMFS in writing by the application deadline. Written communication must either be post-marked or hand-delivered to NMFS within normal business hours no later than December 26, 2017.

Requests for corrections may only be granted for the following reasons:

- (A) Errors in NMFS's use or application of data, including:
 - (1) Errors in NMFS's use or application of landings data from PacFIN;
 - (2) Errors in NMFS's application of the reallocation formula; and
 - (3) Errors in identification of the QS permit owner, permit combinations, or vessel registration as listed in NMFS permit database.

(B) [Reserved]

(vii) *Submission of the application and application deadline*—(A) *Submission of the application.* Submission of the complete, certified application includes, but is not limited to, the following:

(1) The applicant is required to sign and date the application and declare that the contents are true, correct and complete.

(2) The applicant must certify that they qualify to own reallocated widow rockfish QS.

(3) The applicant must indicate they accept NMFS's calculation of reallocated widow rockfish QS provided in the prequalified application, or

provide a written statement and credible information if they do not accept NMFS's calculation.

(4) NMFS may request additional information of the applicant as necessary to make an IAD on reallocated widow rockfish QS.

(B) *Application deadline.* A complete, certified application must be either postmarked or hand-delivered within normal business hours to NMFS, West Coast Region, Permits Office, Bldg. 1, 7600 Sand Point Way NE., Seattle, WA 98115, no later than December 26, 2017. NMFS will not accept or review any applications received or postmarked after the application deadline. There are no hardship exemptions for this deadline.

(viii) *Initial Administrative Determination (IAD).* NMFS will issue an IAD for all complete, certified applications received by the application deadline date. If NMFS approves an application for reallocated widow rockfish QS, the IAD will say so, and the applicant will receive a 2018 QS permit specifying the reallocated amount of widow rockfish QS the applicant has qualified for. If NMFS disapproves or partially disapproves an application, the IAD will provide the reasons. As part of the IAD, NMFS will indicate to the best of its knowledge whether the QS permit owner qualifies for QS or IBQ in amounts that exceed the accumulation limits and are subject to divestiture

provisions given at paragraph (d)(4)(v) of this section. If the applicant does not appeal the IAD within 60 calendar days of the date on the IAD, the IAD becomes the final decision of the Regional Administrator acting on behalf of the Secretary of Commerce.

(ix) *Appeals.* For reallocated widow rockfish QS issued under this section, the appeals process and timelines are specified at § 660.25(g), subpart C. For the reallocation of widow rockfish QS, the bases for appeal are described in paragraph (d)(9)(vi) of this section. Items not subject to appeal include, but are not limited to, the accuracy of permit landings data in the relevant PacFIN dataset on July 27, 2016.

(e) * * *

(4) * * *

(i) *Vessel limits.* For each IFQ species or species group specified in this paragraph, vessel accounts may not have QP or IBQ pounds in excess of the QP vessel limit (annual limit) in any year, and, for species covered by unused QP vessel limits (daily limit), may not have QP or IBQ pounds in excess of the unused QP vessel limit at any time. The QP vessel limit (annual limit) is calculated as all QPs transferred in minus all QPs transferred out of the vessel account. The unused QP vessel limits (daily limit) is calculated as unused available QPs plus any pending outgoing transfer of QPs.

Species category	QP vessel limit (annual limit) (in percent)	Unused QP vessel limit (daily limit) (in percent)
Arrowtooth flounder	20	.....
Bocaccio S. of 40°10' N. lat.	15.4	13.2
Canary rockfish	10	4.4
Chilipepper S. of 40°10' N. lat.	15	.....
Cowcod S. of 40°10' N. lat.	17.7	17.7
Darkblotched rockfish	6.8	4.5
Dover sole	3.9	.....
English sole	7.5	.....
Lingcod:		
N. of 40°10' N. lat.	5.3	.....
S. of 40°10' N. lat.	13.3	.....
Longspine thornyhead:		
N. of 34°27' N. lat.	9	.....
Minor rockfish complex N. of 40°10' N. lat.:		
Shelf species	7.5	.....
Slope species	7.5	.....
Minor rockfish complex S. of 40°10' N. lat.:		
Shelf species	13.5	.....
Slope species	9	.....
Other flatfish complex	15	.....
Pacific cod	20	.....
Pacific halibut (IBQ) N. of 40°10' N. lat.	14.4	5.4
Pacific ocean perch N. of 40°10' N. lat.	6	4
Pacific whiting (shoreside)	15	.....
Petrale sole	4.5	.....
Sablefish:		
N. of 36° N. lat. (Monterey north)	4.5	.....
S. of 36° N. lat. (Conception area)	15	.....
Shortspine thornyhead:		

Species category	QP vessel limit (annual limit) (in percent)	Unused QP vessel limit (daily limit) (in percent)
N. of 34°27' N. lat.	9	.....
S. of 34°27' N. lat.	9	.....
Splitnose rockfish S. of 40°10' N. lat.	15	.....
Starry flounder	20	.....
Widow rockfish	8.5	.....
Yelloweye rockfish	11.4	5.7
Yellowtail rockfish N. of 40°10' N. lat.	7.5	.....
Nonwhiting groundfish species	3.2	.....

* * * * *

[FR Doc. 2017-25349 Filed 11-22-17; 8:45 am]

BILLING CODE 3510-22-P

Proposed Rules

Federal Register

Vol. 82, No. 225

Friday, November 24, 2017

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

NUCLEAR REGULATORY COMMISSION

10 CFR Part 61

[NRC-2011-0012]

RIN 3150-AI92

Low-Level Radioactive Waste Disposal

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory analysis; reopening of comment period.

SUMMARY: On October 17, 2017, the U.S. Nuclear Regulatory Commission (NRC) requested public comment on the draft regulatory analysis, "Draft Regulatory Analysis for Final Rule: Low-Level Radioactive Waste Disposal." The public comment period closed on November 16, 2017. The NRC has decided to extend the public comment period until December 18, 2017, to allow more time for members of the public to develop and submit their comments.

DATES: The comment period for the **Federal Register** document published on October 17, 2017 (82 FR 48283), is reopened and now closes on December 18, 2017. Comments received after this date will be considered, if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

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

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2011-0012. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; email: Carol.Gallagher@nrc.gov. For technical questions contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Email comments to:* Rulemaking.Comments@nrc.gov. If you do not receive an automatic email reply confirming receipt, then contact us at 301-415-1677.

- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301-415-1101.

- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301-415-1677.

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

FOR FURTHER INFORMATION CONTACT:

Gregory R. Trussell, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-6445, email: Gregory.Trussell@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2011-0012 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2011-0012.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC-2011-0012 in your comment submission.

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

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

II. Discussion

On October 17, 2017 (82 FR 48283), the NRC requested public comment on the draft regulatory analysis, "Draft Regulatory Analysis for Final Rule: Low-Level Radioactive Waste Disposal." The purpose of the draft regulatory analysis is to support development of the new supplemental proposed rule as directed by the Commission in the staff requirements memorandum to SECY-16-0106 (ADAMS Accession No. ML17251B147), dated September 8, 2017. The NRC staff is seeking comment on how to improve the approach/methodology and actual cost data currently used in the draft final rule regulatory analysis (ADAMS Accession No. ML16189A050) to provide more accurate cost and benefit data in the final regulatory analysis.

The NRC received several requests from public stakeholders to extend the comment period for the draft regulatory analysis. Public stakeholders noted in their requests that more time is needed to allow for the gathering of actual cost data. The comment period is being reopened and now closes on December 18, 2017.

Dated at Rockville, Maryland, this 17th day of November, 2017.

For the Nuclear Regulatory Commission.
Patricia Holahan,
*Director, Division of Rulemaking, Office of
 Nuclear Material Safety and Safeguards.*
 [FR Doc. 2017-25341 Filed 11-22-17; 8:45 am]
BILLING CODE 7590-01-P

FEDERAL RESERVE SYSTEM

12 CFR Parts 211 and 238

[Docket No. R-1569]

RIN 7100-AE82

Large Financial Institution Rating System; Regulations K and LL

AGENCY: Board of Governors of the Federal Reserve System (Board).

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: On August 17, 2017, the Board published in the *Federal Register* a proposed new rating system for its supervision of large financial institutions. To facilitate effective public comment on the proposal, the Board previously extended the comment period from October 16, 2017, to November 30, 2017. The Board has determined that a further extension of the comment period until February 15, 2018, is appropriate. This action will allow interested persons additional time to analyze the proposal and prepare their comments.

DATES: Comments on the proposed rule published August 17, 2017, 82 FR 39049, are extended and must be received on or before February 15, 2018.

ADDRESSES: You may submit comments by any of the methods identified in the proposal. Please submit your comments using only one method.

FOR FURTHER INFORMATION CONTACT:

Richard Naylor, Associate Director, (202) 728-5854, Vaishali Sack, Manager, (202) 452-5221, April Snyder, Manager, (202) 452-3099, Bill Charwat, Senior Project Manager, (202) 452-3006, Division of Supervision and Regulation, Scott Tkacz, Senior Counsel, (202) 452-2744, or Christopher Callanan, Senior Attorney, (202) 452-3594, Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551. For the hearing impaired only, Telecommunications Device for the Deaf (TDD) users may contact (202) 263-4869.

SUPPLEMENTARY INFORMATION: On August 17, 2017, the Board published in the *Federal Register* a proposed new rating system for its supervision of large

financial institutions.¹ The proposed “Large Financial Institution Rating System” is closely aligned with the Federal Reserve’s new supervisory program for large financial institutions. The proposed rating system would apply to all bank holding companies with total consolidated assets of \$50 billion or more; all non-insurance, non-commercial savings and loan holding companies with total consolidated assets of \$50 billion or more; and U.S. intermediate holding companies of foreign banking organizations established pursuant to the Federal Reserve’s Regulation YY. The proposed rating system includes a new rating scale under which component ratings would be assigned for capital planning and positions, liquidity risk management and positions, and governance and controls. The Federal Reserve proposes to assign initial ratings under the new rating system during 2018. The Federal Reserve is also seeking comment on proposed revisions to existing provisions in Regulations K and LL so they would remain consistent with certain features of the proposed rating system.

The proposal stated that the public comment period would close on October 16, 2017, which the Board previously extended to November 30, 2017.²

An additional extension of the comment period will provide an opportunity for the public to comment on the ratings framework and related supervisory expectations as a whole. Therefore, the Board is extending the end of the comment period for the proposal from November 30, 2017, to February 15, 2018.

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority, November 17, 2017.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2017-25371 Filed 11-22-17; 8:45 am]

BILLING CODE 6210-01-P

¹ See “Large Financial Institution Rating System; Regulations K and LL,” 82 FR 39049 (August 17, 2017).

² See “Large Financial Institution Rating System; Regulations K and LL,” 82 FR 47164 (October 11, 2017).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 61 and 121

[Docket No.: FAA-2017-1106 Notice No. 17-02]

RIN 2120-AL03

Recognition of Pilot in Command Experience in the Military and in Part 121 Air Carrier Operations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice of proposed rulemaking (NPRM) would allow pilots who obtained pilot in command (PIC) experience prior to July 31, 2013, in certain air carrier operations, to count that time towards the 1,000 hours of air carrier experience required to serve as a PIC in air carrier operations today. This would correct an inadvertent omission in the *Pilot Certification and Qualification Requirements for Air Carrier Operations* final rule that established the air carrier experience requirement. It would also broaden the existing 500-hour credit military pilots of fixed-wing airplanes can use towards the 1,000 hours of air carrier experience by permitting pilots of select powered-lift aircraft operations to receive credit. This NPRM would also allow credit for select military time in a powered-lift aircraft flown in horizontal flight towards the 250 hours of airplane time as PIC, or second in command (SIC) performing the duties of PIC, required for an airline transport pilot (ATP) certificate.

DATES: Send comments on or before January 23, 2018.

ADDRESSES: Send comments identified by docket number FAA-2017-1106 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.

- *Mail:* Send comments to Docket Operations, M-30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.

- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* Fax comments to Docket Operations at 202-493-2251.

Privacy: 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 www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

Docket: Background documents or comments received may be read at <http://www.regulations.gov> at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For technical questions concernig this action, contact Barbara Adams, Air Transportation Division, AFS-200, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-8166; email barbara.adams@faa.gov.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code (49 U.S.C.). Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in 49 U.S.C. 106(f), which establishes the authority of the Administrator to promulgate regulations and rules; 49 U.S.C. 44701(a)(5), which requires the Administrator to promulgate regulations and minimum standards for other practices, methods, and procedures necessary for safety in air commerce and national security; and 49 U.S.C. 44703(a), which requires the Administrator to prescribe regulations for the issuance of airman certificates when the Administrator finds, after investigation, that an individual is qualified for, and physically able to perform the duties related to, the position authorized by the certificate. This rulemaking would revise the qualifications required to apply for an airline transport pilot (ATP) certificate and the qualifications required to serve as pilot in command (PIC) in part 121 operations. For these reasons, this rulemaking is within the scope of the FAA's authority.

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ATP Airline Transport Pilot
 PIC Pilot in Command
 SIC Second in Command

I. Overview of Proposed Rule

This rulemaking would provide relief to military pilots of powered-lift aircraft seeking to obtain an airline transport pilot (ATP) certificate with an airplane category rating. As discussed in section II.A. of this preamble, the FAA is proposing to allow military pilots to credit flight time in a powered-lift aircraft operated in horizontal flight towards the 250-hour flight time requirement in an airplane in § 61.159(a)(5). This proposed change would assist military pilots of powered-lift aircraft in qualifying for an ATP certificate in the airplane category.

This rulemaking would also include changes to the 1,000-hour air carrier experience requirement to serve as PIC in part 121 operations. As discussed in section II.B., this rulemaking would allow pilots with part 121 PIC experience acquired prior to July 31, 2013, to count that time towards the 1,000 hours of air carrier experience required to serve as a PIC in part 121 today. Additionally, this rulemaking would broaden the existing 500-hour credit military pilots of fixed-wing airplanes can take towards the 1,000-hour air carrier experience requirement. The proposed change to the existing 500-hour credit would accommodate pilots of multiengine, turbine-powered, powered-lift aircraft in operations where more than one pilot is required.

Because this rulemaking proposes to amend two disparate regulations, the FAA has provided the necessary background information in the relevant sections of the Discussion of the Proposal.

II. Discussion of the Proposal

A. ATP Aeronautical Experience Requirements (§ 61.159)

Since 1969, the FAA has required an applicant for an ATP certificate with an airplane category rating to have at least 1,500 hours of flight time as a pilot. (34 FR 17162). This requirement is found in § 61.159(a). As part of the 1,500 hours of total time required, § 61.159(a)(5) requires the applicant to have at least 250 hours of flight time in an airplane as PIC, or as second in command (SIC) performing the duties of PIC while under the supervision of a PIC, or any combination thereof.¹ The 250 hours of airplane time must include at least 100 hours of cross-country time and 25 hours of night time.²

Over the years, military pilots have asked the FAA whether they may credit their flight time in powered-lift aircraft (when operated in horizontal flight) towards the aeronautical experience requirement of § 61.159(a)(5) for an airplane category rating. Section 61.159(a)(5) requires the 250 hours of flight time as PIC (or SIC performing the duties of PIC while under the supervision of a PIC) to be performed in the category of aircraft for which the rating is sought. In 1997, the FAA established a separate category of aircraft for powered-lift aircraft and adopted § 61.163(a),³ which prescribes the aeronautical experience required for a powered-lift category rating.⁴ Because the FAA established powered-lift as a separate category of aircraft rather than a class or type of airplane, the regulations currently preclude a pilot

¹ See Memorandum to John Duncan from Rebecca MacPherson, Assistant Chief Counsel for Regulations (Apr. 13, 2012)(interpreting the provision of 14 CFR 61.159(a)(4) (2012), which at the time stated "250 hours of flight time in an airplane as pilot in command, or as second in command performing the duties of pilot in command while under the supervision of a pilot in command").

² 14 CFR 61.159(a)(5)(i) and (ii).

³ When the FAA established the powered-lift category rating, some commenters suggested simply requiring pilots to hold both an airplane category and a rotorcraft category rating to operate powered-lift aircraft. Others suggested that the FAA establish type ratings within an existing category of aircraft for powered-lift aircraft. The FAA chose instead to set powered-lift aircraft apart as a separate category from both airplane and rotorcraft. 62 FR 16220 (Apr. 4, 1997).

⁴ Section 61.163(a)(3) requires a person who is applying for an ATP certificate with a powered-lift category rating to obtain the same 250 hours of flight time in a powered-lift aircraft.

from crediting flight time in a powered-lift category aircraft towards the airplane-specific aeronautical experience required for an airplane category rating.⁵

In March 2015, the FAA received a petition for exemption to permit a military pilot to credit time in a powered-lift aircraft toward the airplane flight time requirements of § 61.159(a)(5).⁶ An additional petition was received in January 2016 seeking the same relief.⁷ The FAA has received favorable public comment to the initial petition for exemption from the Air Line Pilots Association, International (ALPA) in a letter dated September 6, 2016.⁸ ALPA supported the petitioner's request for relief from § 61.159(a)(5) by citing the August 11, 1995, notice of proposed rulemaking (NPRM) that proposed to create the powered-lift category. (60 FR 41160). ALPA notes that in the preamble to the NPRM, the FAA acknowledged that the requirements for an ATP certificate for powered-lift aircraft would be similar to the airplane requirements. ALPA also pointed to a legal interpretation that was issued by the Assistant Chief Counsel for the Regulations Division on January 11, 2016,⁹ in which the FAA acknowledged that powered-lift aircraft resemble airplanes in many respects and that they may fly at an airspeed that is consistent with an airplane.

The FAA believes that any relief to § 61.159(a)(5) is most appropriately achieved through notice and comment rulemaking. The FAA notes that a rulemaking change to § 61.159(a)(5) enables the FAA to more generally accommodate military pilots of powered-lift aircraft. Consistent with the types of military pilots who may apply for pilot certificates and ratings under § 61.73, the FAA's proposal accommodates military pilots and former military pilots in the U.S. Armed Forces, and military pilots in the Armed Forces of a foreign contracting State to the Convention on International Civil Aviation provided those foreign military pilots are assigned to pilot duties in the U.S. Armed Forces for purposes other than receiving flight training. In order to

credit flight time in accordance with proposed § 61.159(a)(5)(ii), U.S. military pilots and former U.S. military pilots would be required to provide the documentation in accordance with § 61.73(b)(1), and military pilots in the Armed Forces of a foreign contracting State to the Convention on International Civil Aviation would be required to provide the documentation in accordance with § 61.73(c)(1).¹⁰

The FAA recognizes that powered-lift aircraft are predominantly operated in the horizontal flight regime. When operated in this mode, the FAA finds that powered-lift aircraft are, for all practical purposes, operated as airplanes. As such, the FAA is proposing to amend § 61.159(a)(5) to allow military pilots to credit flight time in powered-lift aircraft operated in horizontal flight towards the 250-hour airplane flight time requirement. Accordingly, a military pilot would be allowed to credit flight time obtained in a powered-lift aircraft as PIC (or as SIC performing the duties of PIC while under the supervision of a PIC) towards the aeronautical experience requirement of § 61.159(a)(5). The proposed allowance to credit military time in powered-lift aircraft towards the 250 hours of airplane time would also extend to the cross country time and night time requirements of this paragraph. The FAA proposes to amend current § 61.159(a)(5) by moving current paragraphs (a)(5)(i) and (a)(5)(ii), which contain the cross country time and night time requirements, to new paragraphs (a)(5)(i)(A) and (a)(5)(i)(B) and by adding new § 61.159(a)(5)(ii), which would contain the proposed allowance for military pilots of powered-lift aircraft.

This proposed change would provide relief to military pilots of powered-lift aircraft who are seeking to obtain an ATP certificate with an airplane category rating. The FAA notes that it is not proposing a similar credit towards the aeronautical experience required for an ATP certificate with a rotorcraft rating.

Under proposed § 61.159(a)(5)(ii), a military pilot would be allowed to credit flight time in a powered-lift aircraft as PIC or as SIC performing the duties of PIC (*i.e.*, manipulating the flight controls or serving as the flying pilot) while under the supervision of a PIC. This proposed provision would be consistent with current § 61.159(a)(5) and with the Memorandum to the Air

Transportation Division from the Assistant Chief Counsel for Regulations dated April 13, 2012 (Memorandum).¹¹ Current § 61.159(a)(5) states "250 hours of flight time in an airplane as a pilot in command, or as second in command performing the duties of pilot in command while under the supervision of a pilot in command, or any combination thereof[.]"¹² The Memorandum explains that this provision should not be confused with § 61.51(e)(1)(iv), which permits a pilot who holds a commercial pilot certificate or ATP certificate that is appropriate to the category and class of aircraft to log PIC time while performing "the duties of pilot in command under the supervision of a qualified pilot in command" if, among other things, the pilot is undergoing an approved PIC training program. While these two provisions contain similar language regarding the performance of PIC duties under the supervision of a PIC, they are distinct provisions.

As evidenced by the Memorandum, the SIC time that may be credited towards the aeronautical experience requirement of § 61.159(a)(5) is not required to meet the PIC logging requirements of § 61.51(e)(1)(iv). Accordingly, a military pilot may count the SIC time during which he or she performs the duties of PIC under the supervision of a PIC towards the 250 hour flight time requirement of § 61.159(a)(5) even if he or she cannot log that SIC time as PIC time in accordance with § 61.51(e)(1)(iv). The SIC time used to meet § 61.159(a)(5) would instead be logged as SIC time in accordance with § 61.51(f). As such, the SIC must be a required flightcrew member by aircraft certification or the regulation under which the flight is conducted.

¹¹ Memorandum to John Duncan, Manager, Air Transportation Division, from Rebecca MacPherson, Assistant Chief Counsel for Regulations (Apr. 13, 2012).

¹² As stated in the Memorandum, this provision was first introduced in the 1952 Civil Air Regulations. CAR 21.16(a) stated that an applicant for an ATP rating shall have "at least 250 hours of flight time composed of time as pilot in command, or time as copilot actually performing the duties and functions of a pilot-in-command under the surveillance of a pilot in command, or any combination thereof." The Civil Aeronautics Board explained that "the experience and training gained by copilots on air carrier aircraft together with flight training experience in performing the duties and functions of an aircraft commander in transport type aircraft is equivalent to or greater than the present requirement for pilot-in-command experience which is often attained in small aircraft under conditions entirely unrelated to air carrier operations." CAB Amendment No. 21-10, Aeronautical Experience Requirement for Airline Transport Pilot Rating.

⁵ In July 2013, the FAA published a final rule that permits military pilots to obtain an ATP certificate with 750 hours total time as a pilot as compared with the 1,500 hours generally required to apply for the certificate. 78 FR 42324 (July 15, 2013).

⁶ www.regulations.gov; Docket No. FAA-2015-0695.

⁷ www.regulations.gov; Docket No. FAA-2016-2486.

⁸ www.regulations.gov; Docket No. FAA-2015-0695.

⁹ Legal Interpretation to Major Daniel Fiust from Lorelei Peter, Acting Assistant Chief Counsel for Regulations (January 11, 2016).

¹⁰ To facilitate readability, the FAA is hereinafter using the term "military pilots" to refer to military pilots and former military pilots in the U.S. Armed Forces, and military pilots in the Armed Forces of a foreign contracting State to the Convention on International Civil Aviation.

The FAA is not proposing to limit the amount of powered-lift time a pilot may credit towards the 250 hours of airplane time other than stating the time credited must have been acquired in horizontal flight. The FAA does not see a safety risk in allowing this credit. A military pilot receives training in an airplane prior to transitioning to a powered-lift aircraft and typically is able to obtain a commercial pilot certificate in the airplane category based on his or her military experience.¹³ Furthermore, in order to be eligible for the ATP certificate with airplane category and multiengine class ratings, a military pilot would still be required to meet the other aeronautical experience requirements of § 61.159, including the requirement to obtain at least 50 hours of flight time in a multiengine land airplane. The FAA also notes that while using the military documentation in § 61.73 to credit the time, the military pilot would still be required to complete the training required by § 61.156 for a multiengine airplane ATP certificate, pass the single-engine or multiengine ATP knowledge test, as appropriate, and pass a practical test/evaluation event in the appropriate class of airplane for the desired ATP certificate.¹⁴

The FAA notes that it is not proposing to make any changes to the ATP flight time requirements. This rulemaking would not reduce the amount of total time as a pilot required for an ATP certificate. Nor would it reduce the amount of total time as a pilot required for an ATP certificate with restricted privileges. Furthermore, the FAA is not proposing to reduce the categorical minimum flight times (e.g., instrument time, night time, etc.) required for an ATP certificate.

B. Minimum of 1,000 Hours in Air Carrier Operations To Serve as Pilot in Command in Part 121 Operations (§ 121.436)

The Airline Safety and Federal Aviation Administration Extension Act of 2010 (Pub. L. 111–216, “the Act”), directed the FAA to conduct rulemaking to improve the qualifications and training for pilots serving in air carrier operations. In support of the Act, the FAA published the *Pilot Certification and Qualification Requirements for Air Carrier Operations* final rule on July 15, 2013. (78 FR 42324). The rule created new certification and qualification requirements for pilots in air carrier operations, including § 121.436. Section

121.436 addresses pilot qualifications, certificates, and experience requirements to act as a PIC of an aircraft (or SIC of an aircraft in a flag or supplemental operation that requires three or more pilots).

Specifically, § 121.436(a)(3) requires pilots serving as PIC in part 121 operations to have, in addition to an ATP certificate and an aircraft type rating, at least 1,000 hours of air carrier experience. The air carrier experience may be a combination of time serving as SIC in operations under part 121, or serving as PIC in operations under § 91.1053(a)(2)(i) or § 135.243(a)(1). Section 121.436(c) allows military pilots to credit towards the 1,000-hour air carrier experience requirement 500 hours of military time obtained as PIC of a multiengine, turbine-powered, fixed-wing airplane in an operation requiring more than one pilot. As discussed in the sections below, the FAA is proposing to amend these requirements to provide relief to pilots who obtained part 121 PIC experience prior to July 31, 2013, and to military pilots of powered-lift aircraft.

1. Part 121 Experience Prior to July 31, 2013

As previously stated, § 121.436(a)(3) requires a pilot to have 1,000 hours of air carrier experience prior to serving as PIC in part 121 operations.¹⁵ This section does not apply to pilots employed as PIC in part 121 operations on July 31, 2013.

Under current § 121.436, a pilot may not use any flight time obtained as PIC in part 121 operations prior to July 31, 2013, to satisfy the 1,000-hour air carrier experience requirement of § 121.436(a)(3). As evidenced by a legal interpretation issued by the Assistant Chief Counsel for Regulations on March 7, 2014,¹⁶ experience as a PIC in part 121 operations is addressed by excepting those pilots employed as PIC in part 121 operations on July 31, 2013, from § 121.436(a)(3).

Since the adoption of § 121.436, the FAA has granted petitions for exemption from § 121.436(a)(3) to pilots who had part 121 PIC experience prior to July 31, 2013, but were not employed

¹⁵ The FAA notes that the introductory paragraph in § 121.436(a) prohibits a pilot from serving as PIC in an aircraft in part 121 operations and also prohibits a certificate holder from using a pilot as PIC in part 121 operations unless the pilot meets all of the requirements in paragraphs (a)(1) through (3). Accordingly, both pilots and certificate holders are responsible for compliance with § 121.436(a).

¹⁶ Legal Interpretation to Mr. Zachary Kelley from Mark W. Bury, Assistant Chief Counsel for Regulations (Mar. 7, 2014).

as a part 121 PIC on July 31, 2013.¹⁷ These exemptions allow pilots to count their previously accrued part 121 PIC time towards the 1,000-hour air carrier experience requirement of § 121.436(a)(3). This allows them to serve as PIC in part 121 operations today and permits the part 119 certificate holder to employ them as PIC.

The FAA is proposing to add new § 121.436(d) to allow a pilot's experience gained as PIC in part 121 operations prior to July 31, 2013, to count towards the 1,000 hours of air carrier experience required by § 121.436(a)(3). Proposed § 121.436(d) would alleviate the need for pilots to obtain exemptions from current § 121.436(a)(3) in order to receive credit for part 121 PIC experience obtained prior to July 31, 2013. For the reasons discussed below, the FAA finds that proposed § 121.436(d) is consistent with the intent of § 121.436(a)(3).

A PIC in part 121 air carrier operations is expected to possess leadership and command abilities, including aeronautical decision making and the sound judgment necessary to exercise operational control of the flight. The intent of the 1,000-hour air carrier experience requirement in § 121.436(a)(3) is to prevent two pilots in part 121 operations with little or no air carrier experience from being paired together as a flightcrew in line operations. In addition, the intent of this rule is to ensure that pilots obtain at least one full year of relevant air carrier operational experience before assuming the authority and responsibility of a PIC in operations conducted in part 121 operations (78 FR 42355).

In the preamble to the final rule that adopted § 121.436(a)(3), the FAA determined that flight time acquired as a PIC in operations under §§ 91.1053(a)(2)(i) and 135.243(a)(1), and flight time acquired as an SIC in part 121 operations should count towards the 1,000 hour air carrier experience requirement. The FAA explained that operations under § 91.1053(a)(2)(i) or § 135.243(a)(1) require an ATP certificate, are multicrew operations, and generally use turbine aircraft and therefore are the most applicable to part 121 operations. (78 FR 42356).

Consistent with this rationale, the FAA finds that a pilot who has obtained PIC experience in part 121 operations prior to July 31, 2013, has exercised the privileges of an ATP certificate in a

¹⁷ Exemption No. 13993 (Docket No. FAA–2014–0658); Exemption No. 15473 (FAA–2016–1287); and Exemption No. 17177 (FAA–2016–9249).

¹³ 14 CFR 61.73.

¹⁴ Section 61.159(a)(3) requires at least 50 hours of flight time in the class of airplane for the rating sought.

position where that certificate is required by rule in the United States, and the operation was in a turbine-powered aircraft in a multicrew environment. Therefore, that time served as a part 121 PIC should count towards the air carrier experience requirement. The FAA notes that all PICs in part 121 operations complete the air carrier's FAA-approved training and qualification program prior to serving as PIC. This training and qualification ensures every PIC is proficient in the air carrier's operations including, but not limited to, standard operating procedures, environments, kinds of operations, operational authorizations and the operation of its aircraft. Accordingly, the FAA finds that allowing PIC time acquired in part 121 operations prior to July 31, 2013, to count towards the air carrier experience requirement would not adversely impact safety; it would support the FAA's goal of ensuring that a pilot possesses sufficient experience to assume the authority and responsibility of PIC in part 121 operations.

2. Military Time

In the *Pilot Certification and Qualification Requirements for Air Carrier Operations* final rule, the FAA recognized that many pilots in the course of their military careers will obtain significant multicrew experience as PICs of transport category aircraft. The FAA therefore adopted § 121.436(c) to allow 500 hours of military flight time accrued as PIC of a multiengine, turbine-powered, fixed-wing airplane in an operation requiring more than one pilot to be credited towards the 1,000-hour air carrier experience requirement.

Under current § 121.436(c), the creditable military flight time is limited to PIC time acquired in fixed-wing airplanes. Since the adoption of § 121.436(c), the FAA has received several inquiries and a petition for exemption from a military pilot seeking to credit military flight time as PIC in multicrew, turbine-powered, powered-lift aircraft towards the 1,000-hour air carrier experience requirement. The petitioner explained that “[o]perational complexity is experienced routinely in the V-22, often with passengers of up to twenty-four. In fact, operations in the V-22 are some of the most complex operations pilots will experience due to its flexibility, range and operating altitudes. Additionally, the V-22 is a multi-crew, multi-engine, turbine aircraft.”¹⁸ The petitioner added that the majority of flight time in the V-22

is in “Airplane Mode” meaning operations are nearly the same as turbine airplane flight time.” The FAA believes that any relief to § 121.436(c) is most appropriately achieved through notice and comment rulemaking. The FAA notes that a rulemaking change to § 121.436(c) enables the FAA to more generally accommodate military pilots of multiengine, turbine-powered, powered-lift aircraft.

The FAA has reconsidered the military flight time that may be credited towards the 1,000-hour air carrier experience requirement. As previously discussed in this preamble, the intent of the 1,000-hour air carrier experience provision is to prevent two pilots in part 121 operations with little or no air carrier experience from being paired together as a flightcrew in line operations and to ensure that pilots obtain at least one full year of relevant air carrier operational experience before assuming the authority and responsibility of a PIC in operations conducted in part 121 operations. Further, a PIC in part 121 air carrier operations is expected to possess leadership and command abilities, including aeronautical decision making and the sound judgment necessary to exercise operational control of the flight. (78 FR42356).

Upon further reconsideration, the FAA is proposing to amend § 121.436(c) to also allow military flight time accrued as PIC of a multiengine, turbine-powered powered-lift aircraft to be credited towards the 1,000-hour air carrier experience requirement. Consistent with the existing requirement, the operation must also require more than one pilot. The FAA finds that military flight time obtained as PIC of transport category powered-lift aircraft provides significant multicrew experience substantially similar to that obtained in transport category fixed-wing airplanes. The FAA also finds that allowing a military-trained PIC of a multiengine, turbine-powered, powered-lift aircraft to credit up to 500 hours towards the 1,000-hour air carrier experience requirement is consistent with the intent of § 121.436. The FAA has previously recognized the quality of the military training and appreciates the complexity of those kinds of transport-like operations. In addition, the FAA has acknowledged that powered-lift aircraft are predominantly operated in the horizontal flight regime, much like an airplane. The FAA maintains, however, that while there is value in this experience, these pilots operate in a unique system that is different from a part 121 air carrier environment and military pilots would benefit from

spending some time serving as a required crewmember in a civilian air carrier operation before upgrading to PIC. This time would prepare them for operating in compliance with the U.S. regulations that govern civil aviation, the air carrier's particular operating specifications, and the airplane's operations manual.

3. Miscellaneous Amendments

Current § 121.436(a)(3) excepts from the requirements of paragraph (a)(3) pilots who “are” employed as PIC in part 121 operations on July 31, 2013. Because the date referenced in paragraph (a)(3) has since passed, the FAA is proposing to revise the statement to except pilots who “were” employed as PIC in part 121 operations on July 31, 2013.

Current § 121.436(d) requires compliance with the requirements of § 121.436 by August 1, 2013. This paragraph states, however, that pilots who are employed as SIC in part 121 operations on July 31, 2013, are not required to comply with the type rating requirement in § 121.436(b) until January 1, 2016. Now that § 121.436 is effective with no exceptions, the dates in paragraph (d) are no longer relevant. The FAA is, therefore, proposing to remove current paragraph (d) from § 121.436.¹⁹

III. Regulatory Notices and Analyses

A. Regulatory Evaluation

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 and Executive Order 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96-39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by

¹⁸ www.regulations.gov; Docket No. FAA-2016-8875.

¹⁹ As previously discussed, the FAA is proposing to add a new paragraph (d) to § 121.436.

State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this Notice of Proposed Rulemaking.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it to be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this rule. Due to Executive Order (EO) 13771 requirements the FAA conducted further analysis and determined this rule is expected to be an EO 13771 deregulatory action as the regulatory changes result in cost savings.

While the costs may be minimal to the society, the proposed rule would be relieving both to individuals and corporations. The proposed rule change is composed of two distinct parts: The first part would modify the part 121 air carrier experience requirement to serve as a Pilot in Command (PIC) to allow credit for experience as PIC if a pilot held that position prior to July 31, 2013. Currently such experience does not count towards qualifying to be a PIC without filing for an exemption. This recognition of previous status and qualification for part 121 PIC employment service would relieve the individual pilots, part 121 air carriers that would employ those pilots, and the Federal government of procedural costs for developing, filing, and reviewing petitions for exemption. The cost of an exemption is about \$1,500. The FAA does not know how many pilots would ask for such an exemption in the future. The second part would allow 250 hours of military PIC experience in powered-lift aircraft in horizontal flight to count towards the PIC airplane time required for an ATP certificate in the airplane category. This rule would relieve these military pilots seeking employment at a part 121 air carrier of the offsetting expense for accruing civilian flight time in airplanes to meet the ATP airplane minimum time requirements, which are required in order to serve at a part 121 air carrier. At \$150 an hour per flight hour, the value of 250 flight hours is a cost savings of \$37,500. The FAA requests comments on whether the enactment of counting military powered-lift time towards airplane PIC time would change these pilots' military

retirement decisions. The FAA believes the costs are minimal and cost-relieving.

FAA has, therefore, determined that this rule is not a "significant regulatory action" as defined in section 3(f) of Executive Order 12866, and is not "significant" as defined in DOT's Regulatory Policies and Procedures.

B. Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96-354) (RFA) establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation." To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration." The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The proposed rule would be relieving to pilots interested in part 121 operator employment and not affect small businesses. The rule would count PIC status which occurred prior to July 31, 2013 toward PIC qualifications for part 121 PIC qualification. The rule would also include allowance for counting military powered-lift experience towards part 121 PIC qualifications. As this rule would be relieving to pilots who are not small entities the FAA has determined this rule would not impose a significant economic impact on a substantial number of small entities. While the rule would be relieving the direct impact would be to pilots wanting to work for a Part 121 operator.

If an agency determines that a rulemaking will not result in a significant economic impact on a

substantial number of small entities, the head of the agency may so certify under section 605(b) of the RFA. Therefore, as provided in section 605(b), the head of the FAA certifies that this rulemaking will not result in a significant economic impact on a substantial number of small entities.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96-39), as amended by the Uruguay Round Agreements Act (Pub. L. 103-465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this rule and determined that the rule will have the same impact on international and domestic flights and is a safety rule thus is consistent with the Trade Agreements Act.

D. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of \$100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a "significant regulatory action." The FAA currently uses an inflation-adjusted value of \$155 million in lieu of \$100 million. This rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. According to the 1995 amendments to the Paperwork Reduction Act (5 CFR 1320.8(b)(2)(vi)), an agency may not collect or sponsor the collection of information, nor may it impose an

information collection requirement unless it displays a currently valid Office of Management and Budget (OMB) control number.

The FAA has determined that there would be no new information collection associated with the proposal to allow a military pilot to use time as a PIC in powered-lift aircraft towards the 250 hours of PIC airplane time required for an ATP certificate. Approval to collect such information previously was approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) and was assigned OMB Control Number 2120-0021

The agency is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of collecting information on those who are to respond, including by using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Individuals and organizations may send comments on the information collection requirement to the address listed in the **ADDRESSES** section at the beginning of this preamble by January 23, 2018. Comments also should be submitted to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for FAA, New Executive Building, Room 10202, 725 17th Street NW., Washington, DC 20053.

F. International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no differences with these proposed regulations.

G. Environmental Analysis

FAA Order 1050.1F identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the

absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 5–6.6 and involves no extraordinary circumstances.

IV. Executive Order Determinations

A. Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs

Executive Order 13771 titled “Reducing Regulation and Controlling Regulatory Costs,” directs that, unless prohibited by law, whenever an executive department or agency publicly proposes for notice and comment or otherwise promulgates a new regulation, it shall identify at least two existing regulations to be repealed. In addition, any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs. Only those rules deemed significant under section 3(f) of Executive Order 12866, “Regulatory Planning and Review,” are subject to these requirements.

This proposed rule is expected to be an EO 13771 deregulatory action. Details on the estimated costs savings of this proposed rule can be found in the rule's economic analysis.

B. Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. The agency has determined that this action would not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, would not have Federalism implications.

C. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The agency has determined that it would not be a “significant energy action” under the executive order and would not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

D. Executive Order 13609, International Cooperation

Executive Order 13609, Promoting International Regulatory Cooperation, promotes international regulatory cooperation to meet shared challenges

involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The FAA has analyzed this action under the policies and agency responsibilities of Executive Order 13609, and has determined that this action would have no effect on international regulatory cooperation.

V. Additional Information

A. Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The agency also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The agency may change this proposal in light of the comments it receives.

B. Availability of Rulemaking Documents

An electronic copy of rulemaking documents may be obtained from the Internet by—

1. Searching the Federal eRulemaking Portal (<http://www.regulations.gov>);
2. Visiting the FAA's Regulations and Policies Web page at http://www.faa.gov/regulations_policies or
3. Accessing the Government Printing Office's Web page at <http://www.gpo.gov/fdsys/>.

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-9680. Commenters must identify the docket or notice number of this rulemaking.

All documents the FAA considered in developing this proposed rule,

including economic analyses and technical reports, may be accessed from the Internet through the Federal eRulemaking Portal referenced in item (1) above.

List of Subjects

14 CFR Part 61

Aircraft, Airmen, Aviation safety.

14 CFR Part 121

Air carriers, Aircraft, Airmen, Aviation safety.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend chapter I of title 14, Code of Federal Regulations as follows:

PART 61—CERTIFICATION: PILOTS, FLIGHT INSTRUCTORS, AND GROUND INSTRUCTORS

■ 1. The authority citation for part 61 is revised to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701–44703, 44707, 44709–44711, 44729, 44903, 45102–45103, 45301–45302, Pub. L. 111–216, 124 Stat. 2348 (49 U.S.C. 44701 note).

■ 2. In § 61.159, revise paragraph (a)(5) to read as follows:

§ 61.159 Aeronautical experience: Airplane category rating.

(a) * * *

(5) 250 hours of flight time in an airplane as a pilot in command, or as second in command performing the duties of pilot in command while under the supervision of a pilot in command,

or any combination thereof, subject to the following:

(i) The flight time requirement must include at least—

(A) 100 hours of cross-country flight time; and

(B) 25 hours of night flight time.

(ii) Except for a person who has been removed from flying status for lack of proficiency or because of a disciplinary action involving aircraft operations, a U.S. military pilot or former U.S. military pilot who meets the requirements of § 61.73(b)(1), or a military pilot in the Armed Forces of a foreign contracting State to the Convention on International Civil Aviation who meets the requirements of § 61.73(c)(1), may credit flight time in a powered-lift aircraft operated in horizontal flight toward the flight time requirement.

* * * * *

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

■ 3. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40113, 40119, 41706, 42301 preceding note added by Pub. L. 112–95, sec. 412, 126 Stat. 89, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44729, 44732; 46105; Pub. L. 111–216, 124 Stat. 2348 (49 U.S.C. 44701 note); Pub. L. 112–95 126 Stat 62 (49 U.S.C. 44732 note).

■ 4. In § 121.436, revise paragraphs (a)(3), (c), and (d) to read as follows:

§ 121.436 Pilot Qualification: Certificates and experience requirements.

(a) * * *

(3) If serving as pilot in command in part 121 operations, has 1,000 hours as second in command in operations under this part, pilot in command in operations under § 91.1053(a)(2)(i) of this chapter, pilot in command in operations under § 135.243(a)(1) of this chapter, or any combination thereof. For those pilots who were employed as pilot in command in part 121 operations on July 31, 2013, compliance with the requirements of this paragraph (a)(3) is not required.

* * * * *

(c) For the purpose of satisfying the flight hour requirement in paragraph (a)(3) of this section, a pilot may credit 500 hours of military flight time provided the flight time was obtained—

(1) As pilot in command in a multiengine, turbine-powered, fixed-wing airplane or powered-lift aircraft, or any combination thereof; and

(2) In an operation requiring more than one pilot.

(d) For the purpose of satisfying the flight hour requirement in paragraph (a)(3) of this section, a pilot may credit flight time obtained as pilot in command in operations under this part prior to July 31, 2013.

Issued under authority provided by 49 U.S.C. 106(f), 44701(a), and 44703 in Washington, DC, on November 9, 2017.

John Barbagallo,

Executive Deputy Director, Flight Standards Service.

[FR Doc. 2017–25358 Filed 11–22–17; 8:45 am]

BILLING CODE 4910–13–P

Notices

Federal Register

Vol. 82, No. 225

Friday, November 24, 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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Notice of Public Meeting of the Assembly of the Administrative Conference of the United States

AGENCY: Administrative Conference of the United States.

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act, the Assembly of the Administrative Conference of the United States will hold a meeting to consider five proposed recommendations and to conduct other business. This meeting will be open to the public.

DATES: The meeting will take place on Thursday, December 14, 2017, 1:00 p.m. to 5:30 p.m., and Friday, December 15, 2017, 9:00 a.m. to 12:00 noon. The meeting may adjourn early if all business is finished.

ADDRESSES: The meeting will be held at the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581 (Main Conference Room).

FOR FURTHER INFORMATION CONTACT: Shawne McGibbon, General Counsel (Designated Federal Officer), Administrative Conference of the United States, Suite 706 South, 1120 20th Street NW., Washington, DC 20036; Telephone 202-480-2088; email smcgibbon@acus.gov.

SUPPLEMENTARY INFORMATION: The Administrative Conference of the United States makes recommendations to federal agencies, the President, Congress, and the Judicial Conference of the United States regarding the improvement of administrative procedures (5 U.S.C. 594). The membership of the Conference, when meeting in plenary session, constitutes the Assembly of the Conference (5 U.S.C. 595).

Agenda: The Assembly will consider five proposed recommendations as described below:

Plain Language in Regulatory Drafting. This proposed recommendation identifies tools and techniques agencies have used successfully to write regulatory documents (including rulemaking preambles and guidance documents) using plain language, proposes best practices for agencies in structuring their internal drafting processes, and suggests ways agencies can best use trainings and other informational resources.

Marketable Permits. This proposed recommendation provides best practices for structuring, administering, and overseeing marketable permitting programs for any agency that has decided to implement such a program.

Agency Guidance. This proposed recommendation provides best practices to agencies on the formulation and use of guidance documents.

Regulatory Experimentation. This proposed recommendation offers advice to agencies on learning from different regulatory approaches. It encourages agencies to collect data, conduct analysis at all stages of the rulemaking lifecycle (from pre-rule analysis to retrospective review), and solicit public input at appropriate points in the process.

Regulatory Waivers and Exemptions. This proposed recommendation provides best practices to agencies concerning their use of waivers and exemptions. It offers recommendations on how agencies should structure their waiver and exemption procedures to increase transparency and promote public input.

Additional information about the proposed recommendations and the order of the agenda, as well as other materials related to the meeting, can be found at the 68th Plenary Session page on the Conference's Web site: <https://www.acus.gov/meetings-and-events/plenary-meeting/68th-plenary-session>.

Public Participation: The Conference welcomes the attendance of the public at the meeting, subject to space limitations, and will make every effort to accommodate persons with disabilities or special needs. Members of the public who wish to attend in person are asked to RSVP online at the 68th Plenary Session Web page shown above,

no later than two days before the meeting, in order to facilitate entry. Members of the public who attend the meeting may be permitted to speak only with the consent of the Chairman and the unanimous approval of the members of the Assembly. If you need special accommodations due to disability, please inform the Designated Federal Officer noted above at least 7 days in advance of the meeting. The public may also view the meeting through a live webcast, which will be available at: <https://livestream.com/ACUS>.

Written Comments: Persons who wish to comment on any of the proposed recommendations may do so by submitting a written statement either online by clicking "Submit a Comment" on the 68th Plenary Session Web page shown above or by mail addressed to: December 2017 Plenary Session Comments, Administrative Conference of the United States, Suite 706 South, 1120 20th Street, NW., Washington, DC 20036. Written submissions must be received no later than 10:00 a.m. (EDT), Wednesday, December 13, to assure consideration by the Assembly.

Dated: November 17, 2017.

Shawne McGibbon,
General Counsel.

[FR Doc. 2017-25374 Filed 11-22-17; 8:45 am]

BILLING CODE 6110-01-P

AGENCY FOR INTERNATIONAL DEVELOPMENT

Senior Executive Service: Membership of Performance Review Board

ACTION: Notice.

SUMMARY: This notice lists approved candidates who will comprise a standing roster for service on the Agency's 2017 SES Performance Review Board. The Agency will use this roster to select SES board members. The standing roster is as follows:

Allen, Colleen
Bader, Harry
Broderick, Deborah
Buckley, Ruth
Chan, Carol
Chapotin, Saharah Moon
Crumbly, Angelique
Detherage, Maria
Feinstein, Barbara
Foley, Jason
Girod, Gayle

Jenkins, Robert
 Johnson, Mark
 Koek, Irene
 Kuyumjian, Kent
 Leavitt, William
 Lewis, Kimberly
 Longi, Maria
 Mahanand, Vedjai
 Mitchell, Reginald
 Moore, David
 Ohlweiler, John
 Pascocello, Susan
 Peters, James
 Shelat, Neilesh
 Steele, Gloria
 Vera, Mauricio
 Voorhees, John
 Walther, Mark
 Warren, Gordon
 Whyche-Shaw, Oren

FOR FURTHER INFORMATION CONTACT:
 Maryclare Whitehead, 202-216-3489.

Dated: November 13, 2017.
Karen Baquedano,
*Acting Director, Center for Performance
 Excellence.*
 [FR Doc. 2017-25381 Filed 11-22-17; 8:45 am]
BILLING CODE P

ACTION: Notice and opportunity for public comment.

SUMMARY: The Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of the firms contributed importantly to the total or partial separation of the firms' workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

SUPPLEMENTARY INFORMATION:

DEPARTMENT OF COMMERCE
Economic Development Administration
**Notice of Petitions by Firms for
 Determination of Eligibility To Apply
 for Trade Adjustment Assistance**

AGENCY: Economic Development Administration, U.S. Department of Commerce.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE
 [11/6/2017 through 11/16/2017]

Firm name	Firm address	Date accepted for investigation	Product(s)
Composite Engineering, Inc.	277 Baker Avenue, Concord, MA 01742.	11/9/2017	The firm manufactures custom-made kayaks and rowing shells for recreational and racing purposes, and the firm also manufactures spars for racing scows and sailboats.
Seeds of Happiness, LLC.	150 Prospect Avenue, Kirkwood, MO 63122.	11/14/2017	The firm manufactures ceramic novelty items.
Prestolite Electric, Inc.	400 Main Street, Arcade, NY 14009.	11/16/2017	The firm manufactures alternators, starter motors, and replacement components for such products.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Irette Patterson,
Program Analyst.
 [FR Doc. 2017-25370 Filed 11-22-17; 8:45 am]
BILLING CODE 3510-WH-P

DEPARTMENT OF COMMERCE
Foreign-Trade Zones Board
[B-67-2017]
Foreign-Trade Zone (FTZ) 26—Atlanta, Georgia; Notification of Proposed Production Activity Kubota North America Corporation (Agricultural and Specialty Vehicles) Jefferson and Gainesville, Georgia

Kubota North America Corporation (Kubota) submitted a notification of proposed production activity to the FTZ Board for its facilities in Jefferson and Gainesville, Georgia. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on November 15, 2017.

Kubota facilities are located within Subzone 26P. The facilities are used for the production of gasoline and diesel-

powered agricultural and specialty vehicles such as backhoes, front loaders, skid steer loaders, lawn tractors and lawn mowers, sub-compact tractors and work utility vehicles. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Kubota from customs duty payments on the foreign-status materials/components used in export production (estimated 20 percent of production). On its domestic sales, for the foreign-status materials/components noted below, Kubota would be able to choose the duty rates during customs entry procedures that apply to: Cabin tool box kits; heat, water, and sound insulation kits; weather strip kits;

product catalogs; replacement glass and glass assemblies; mirror kits; drain kits; tool box kits; key assemblies; radio mounting kits; gas and diesel replacement engines; hydraulic cylinder assemblies; gas and diesel engine repair kits; gas, oil, water filters, and filter and pump assemblies; liquid applicator attachments; sprayer attachment for tractors; self-propelled trucks; load-lifting equipment; bulldozers; graders; tamping machines; front-end loaders; excavators and backhoes; gas and diesel tractors; snowplows; front end loader buckets; extension blade kits; backhoe cab conversion kits; rotary tillers; riding mowers; disc mowers; haymaking equipment; farm implement repair kits; hydraulic valves and valve kits; transmission repair kits; alternator kits; work light kits; horn kits; rear defoggers; engine diagnostic software; radio cassette players; LCD monitors; travel alarm kits; remote hitch switches; trailer kits; connector assemblies; vehicle control units; wire harnesses; gas and diesel tractors for agricultural use; gas and diesel work utility vehicles; tractor bodies; gear boxes for agricultural tractors and other off-road vehicles; roll-over protection systems; brake kits; transmission rework kits; drive axles, clutches, driveshaft assemblies and parts; wheels and wheel and tire assemblies; steering kits; drive train repair parts for work utility vehicles; cruise control kits; instructor seats with seat belts and, arm rest kits (duty-free to 7.8%). Kubota would be able to avoid duty on foreign-status components which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The materials/components sourced from abroad include: Oil and grease; glues and adhesives for vehicle assembly; antiknock fluids; reinforced and unreinforced tubes and hoses with and without fittings for vehicle assembly; pipe fittings and switches for vehicle assembly; adhesive tapes; sound and water absorbers; insulators for use in vehicle assembly; plastic boxes; plastic bags; plastic bottles; caps for use in vehicle assembly; plastic buckets; plastic bolts; plastic handles and knobs; rubber O-rings; rubber gaskets; rubber seals; rubber rods; hoses and belts for use in gas and diesel vehicle assembly; tires for agricultural tractors and other off-road vehicles; inner tubes for agricultural tractors and other off-road vehicles; sleeves and abrasives; rubber tractor parts; tool cases for tractors; wood cases for tractor tools and parts; safety, warning, and identification labels; printed instructions; warranty

certificates; instruction manuals; drawings and schematics; paper for printed instructions; brake linings; friction materials; gaskets, including gaskets with flanges; molded and safety glass parts; framed and unframed mirror glass assemblies; lenses and lens covers; fiberglass insulation; steel bars; galvanized steel tubes; stainless steel tubes; iron, steel, and base metal tubes and pipes; iron, steel, and base metal pipe fittings; adapter assemblies; couplers; structural steel; steel containers; steel enclosures; steel cables; steel chain and chain parts; iron, steel, and stainless steel bolts, studs, screws, nuts, washers, rivets, clips, keys, and pins; springs; cast iron parts; shims; hose fittings; brass plates; copper tubing; slide rings and eye joints; packing and packing nuts for fluid containments in agricultural tractors and other off-road vehicles; copper and brass washers and other fasteners for agricultural tractors and other off-road vehicles; adapters and spacers; oil cooler connectors; intake screens; copper wire; slip joint pliers; open end wrenches; hammers; steel hand tools; clamps for inclusion in tool boxes for tractors; tool boxes for tractor tool kits; blades for agricultural tractors and tractor implements; locks, lock parts, and lock assemblies for vehicles; hinges and brackets; handles; levers and brackets; lock brackets, and bracket assemblies; door dampers; steel flex tubing; plugs; nameplates for agricultural tractors and other off-road vehicles; gas and diesel engines; dynamos; fuel tank caps; connecting rods and connecting rod assemblies; rocker arms and rocker arm assemblies; push rods; pistons; exhaust manifolds; intake manifolds; carburetors; carburetor assemblies and subassemblies; intake valves; exhaust valves; throttle body assemblies; piston rings; spark plug caps; chain guides; oil dipstick guides; oil dipsticks; crankshafts and crankshaft shims; cylinder heads; water pumps; cylinder liners; tensioners; brackets; housings; rotors; flyweight governors; bearing case covers; bearing holders; crankcases; vaporizer assemblies; crankcase covers; carburetor jets and nozzles; fuel injectors; timing chain covers; fuel delivery assemblies; rocker arm covers; valve covers; balancer shafts; filter elements; oil pans; gasket shims for gas and diesel engines; hydraulic cylinder assemblies; hydraulic engines; spring motors; fuel pumps and assemblies; compressor assemblies; hydraulic fluid; gas, oil, air, and water pumps and pump assemblies; oil fill pipes; air compressors and assemblies; fans; air

conditioners; condensers; heating units; gas, oil, air, and water filters and filter assemblies; cutting blades and packaging machinery guides for agricultural tractors and other off-road vehicles; digital scales; fire extinguishers; sprayers; washer tanks; washer nozzles; jacks for agricultural tractors and other off-road vehicles; self-propelled trucks; conveyor belts for agricultural use; load-lifting equipment; bulldozers; graders; tamping machines; front-end loaders; backhoes; snowplows; tractor implements; tractor attachments; hay equipment; parts for tractor implements; feed preparation equipment; parts for feed equipment; flat panel displays for vehicle information display; electromechanical displays; electrical indicators; hydraulic valves and valve assemblies for agricultural tractors and construction equipment; bearings; steel balls for bearings; roller bearing cups; universal joint assemblies; bushing, bearing, and gear cases; pulleys for agricultural tractors and other off-road vehicles; drive shaft components; oil and dust seals; motors, generators and motor assemblies; commutator parts; discharge ballasts; static converters; power supply parts; permanent magnets; electromagnetic clutches; solenoids; batteries; battery covers and retainers; spark plugs; magnetos; distributors; starter and alternator assemblies; gas controllers and starter systems; light assemblies; safety buzzers; windshield wipers; windshield wiper arm assemblies; electric space heaters; heater blocks; resistors and other heater components; speakers; microphones; radio transmission devices; radar equipment; stereos; radios; vehicle information displays; antennae; lighted indicator panels; indicator panels; condenser assemblies; seals; capacitors; resistors; sensors; variable resistors; circuit boards; circuit breakers; vehicle fuses; relays; switch assemblies; light sockets and light socket assemblies; contactor assemblies; fuse and dashboard assemblies; vehicle connectors; lamps for vehicles; halogen and filament lamps; lamp parts; diodes; vehicle engine control units; vehicle electrical controls; vehicle electrical control center parts; copper winding wire; electrical cables; ignition wire sets; battery cables; wire harnesses; electrodes; electrical insulators; electrical conduits; empty cells for vehicle batteries; battery fixtures; tractors; dump vehicles; tractor bodies; bumpers; seat belt assemblies; seat belt parts for vehicles; vehicle parking locks; transmission components; front axle assemblies; wheels; shock absorbers;

radiators; sound mufflers for vehicle engines; clutch assemblies; bearing holders; transmissions; transmission sub-assemblies; brakes; axle covers; brackets; stays; rods; muffler pipe; rod assemblies; flanges; supports; knobs; levers; wiper blades; control wire; control cable; shock absorbers; universal joints; bevel gears; spiral gears; pinion gears; guards; lenses; plates; planetary gears; splines; drive shafts; clutch rod shafts; u-joints; shaft assemblies; collars; differential cases; transmission cases; ball joints; axle cases; gear cases; gear shafts; pins; shims; bushings; drive shaft caps; shaft couplings; steering shafts; shaft yokes; thrust collars; synchronizer rings; dust covers; heater assemblies; tie rods; brackets; battery retainers; control pedals; fuel tanks; hand rails; radiator grilles; bonnet dampers; steering linkages; suspension linkages; muffler stays; struts for agricultural tractors and other off-road vehicles; unmounted glass lenses for vehicle signals and controls; glass lenses for vehicle signals and controls; thermometers; sensors; gauges; oil switches; electrical sensors and liquid and gas sensors; odometers; other panel meters for use in vehicle control; counters for use in vehicles and farm implements; volt meters for vehicle and farm implement controls; other instruments for vehicle and farm implement controls; test benches for vehicle and implement repair; measuring equipment for vehicle control and repair; thermostats; temperature controllers; speed sensors for vehicle control; regulators; rotary switches; seats and seat assemblies; slide rollers for seats; work lamps; toy tractors; brushes for vehicle repair; and, electric lighter covers for agricultural tractors and other off-road vehicles (duty rate ranges from duty-free to 12%). The request indicates that bearings are subject to antidumping/countervailing duty (AD/CVD) orders when imported from certain countries. The FTZ Board's regulations (15 CFR 400.14(e)) require that merchandise subject to AD/CVD orders, or items which would be otherwise subject to suspension of liquidation under AD/CVD procedures if they entered U.S. customs territory, be admitted to the zone in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is January 3, 2018.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room

21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230-0002, and in the "Reading Room" section of the Board's Web site, which is accessible via www.trade.gov/ftz.

For further information, contact Christopher Wedderburn at Chris.Wedderburn@trade.gov or (202) 482-1963.

Dated: November 17, 2017.

Andrew McGilvray,
Executive Secretary.

[FR Doc. 2017-25399 Filed 11-22-17; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 171010985-7985-01]

National Cybersecurity Center of Excellence (NCCoE) Securing Property Management Systems for the Hospitality Sector

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice.

SUMMARY: The National Institute of Standards and Technology (NIST) invites organizations to provide products and technical expertise to support and demonstrate security platforms for Securing Property Management Systems for the Hospitality Sector. This notice is the initial step for the National Cybersecurity Center of Excellence (NCCoE) in collaborating with technology companies to address cybersecurity challenges identified under the Hospitality Sector program. Participation in the use case is open to all interested organizations.

DATES: Interested parties must contact NIST to request a letter of interest template to be completed and submitted to NIST. Letters of interest will be accepted on a first come, first served basis. Collaborative activities will commence as soon as enough completed and signed letters of interest have been returned to address all the necessary components and capabilities, but no earlier than December 26, 2017. When the use case has been completed, NIST will post a notice on the NCCoE Hospitality Sector program Web site at <https://nccoe.nist.gov/projects/use-cases/securing-property-management-systems> announcing the completion of the use case and informing the public that it will no longer accept letters of interest for this use case.

ADDRESSES: The NCCoE is located at 9700 Great Seneca Highway, Rockville, MD 20850. Letters of interest must be submitted to hospitality-nccoe@nist.gov or via hardcopy to National Institute of Standards and Technology, NCCoE; 9700 Great Seneca Highway, Rockville, MD 20850. Organizations whose letters of interest are accepted in accordance with the process set forth in the **SUPPLEMENTARY INFORMATION** section of this notice will be asked to sign a consortium Cooperative Research and Development Agreement (CRADA) with NIST. An NCCoE consortium CRADA template can be found at: <http://nccoe.nist.gov/node/138>.

FOR FURTHER INFORMATION CONTACT: Mr. William Newhouse via email to hospitality-nccoe@nist.gov; by telephone (301) 975-0232; or by mail to National Institute of Standards and Technology, NCCoE; 9700 Great Seneca Highway, Rockville, MD 20850. Additional details about the Hospitality Sector program are available at <https://nccoe.nist.gov/projects/use-cases/securing-property-management-systems>.

SUPPLEMENTARY INFORMATION:

Background: The NCCoE, part of NIST, is a public-private collaboration for accelerating the widespread adoption of integrated cybersecurity tools and technologies. The NCCoE brings together experts from industry, government, and academia under one roof to develop practical, interoperable cybersecurity approaches that address the real-world needs of complex Information Technology (IT) systems. By accelerating dissemination and use of these integrated tools and technologies for protecting IT assets, the NCCoE will enhance trust in U.S. IT communications, data, and storage systems; reduce risk for companies and individuals using IT systems; and encourage development of innovative, job-creating cybersecurity products and services.

Process: NIST is soliciting responses from all sources of relevant security capabilities (see below) to enter into a Cooperative Research and Development Agreement (CRADA) to provide products and technical expertise to support and demonstrate security platforms for the Securing Property Management Systems for the Hospitality Sector. The full use case can be viewed at: <https://nccoe.nist.gov/projects/use-cases/securing-property-management-systems>.

Interested parties should contact NIST using the information provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice. NIST will then provide each interested party with a

letter of interest template, which the party must complete, certify that it is accurate, and submit to NIST. NIST will contact interested parties if there are questions regarding the responsiveness of the letters of interest to the use case objective or requirements identified below. NIST will select participants who have submitted complete letters of interest on a first come, first served basis within each category of product components or capabilities listed below up to the number of participants in each category necessary to carry out this use case. However, there may be continuing opportunity to participate even after initial activity commences. Selected participants will be required to enter into a consortium CRADA with NIST (for reference, see **ADDRESSES** section above). NIST published a notice in the **Federal Register** on October 19, 2012 (77 FR 64314) inviting U.S. companies to enter into National Cybersecurity Excellence Partnerships (NCEPs) in furtherance of the NCCoE. For this demonstration project, NCEP partners will not be given priority for participation.

Use Case Objective: The objective of this project is to help the hospitality industry implement stronger security measures and reduce vulnerabilities within and around their Property Management Systems (PMS), with a focus on the connection to a point-of-sale (POS) system. The project will identify typical hotel IT infrastructures and PMS-POS configurations, systems, and components that integrate or interface with both applications. The project will also identify interactions between PMS operators and authorized third-party service provider (SP) systems (e.g., online booking, customer relationship marketing partners, etc.). This project will result in a NIST Cybersecurity Practice Guide—a publicly available description of the solution and practical steps needed to effectively secure property management systems. A detailed description of the Securing Property Management Systems Use Case is available at: <https://nccoe.nist.gov/projects/use-cases/securing-property-management-systems>.

Requirements: Each responding organization's letter of interest should identify which security platform component(s) or capability(ies) it is offering. Letters of interest should not include company proprietary information, and all components and capabilities must be commercially available. Components are listed in section 3 of the Securing Property Management Systems Project Description for the Hospitality Sector (for reference, please see the link in the

PROCESS section above) and include, but are not limited to:

- PMS and POS system(s)
- Point-to-Point Encryption (P2PE)
- Data tokenization
- Multifactor authentication mechanism
- Access control platform
- User behavior analytics
- Network analytics
- Data logging
- Data storage
- Virtualization

Each responding organization's letter of interest should identify how their products address one or more of the following desired solution characteristics in section 3 of the Securing Property Management Systems for the Hospitality Sector (for reference, please see the link in the PROCESS section above):

1. Auditing, analytics and response capabilities such as:
 - Complete, near real-time auditing and reporting of activity, including:
 - User behavior analytics
 - Unauthorized access
 - Unauthorized user behavior
 - Network analytics
 - Access requests and decisions
 - Automated detection and/or response to incidents
 - Continuous monitoring and retention of information on component interactions
 - Continuous monitoring and retention of network events
2. System Protection and Authentication capabilities with enforcement such as:
 - Access control for internal and third-party users, including:
 - Access control policy creation
 - Determination of access control decisions based on policies
 - Access control policy enforcement
 - Multifactor Authentication for remote and third-party access
 - Adherence to principles of segmentation and zero-trust, including:
 - Multiple trust zones and logical trust boundaries
 - Network segmentation gateways
 - Network virtualization platform and micro-segmentation
3. Data Protection and Encryption capabilities to prevent damage to PCI/PII confidentiality, as well as the confidentiality and integrity of system data such as:
 - Point-to-point encryption (P2PE)
 - Limited/no storing/processing/transmission of payment card data
 - Secure data tokenization and token management capabilities, including:
 - Token generation

- Token mapping
- Cryptographic key management
- Utilization of a non-PCI, sensitive consumer secure data vault
- Prevention of damage to PCI/PII confidentiality
- Prevention of damage to PMS functionality and security, and improved mitigation of cybersecurity risks
- Secure Payment Terminal
- Payment Information Proxy service

Responding organizations need to understand and, in their letters of interest, commit to provide:

1. Access for all participants' project teams to component interfaces and the organization's experts necessary to make functional connections among security platform components.

2. Support for development and demonstration of the Securing Property Management Systems for the Hospitality Sector in NCCoE facilities, which will be conducted in a manner consistent with the following standards and guidance: FIPS 140–2, FIPS 200, FIPS 201, SP 800–53, SP 800–63–3, and Payment Card Industry Data Security Standard (PCI–DSS).

Additional details about the Securing Property Management Systems for the Hospitality Sector use case are available at: <https://nccoe.nist.gov/projects/use-cases/securing-property-management-systems>.

NIST cannot guarantee that all of the products proposed by respondents will be used in the demonstration. Each prospective participant will be expected to work collaboratively with NIST staff and other project participants under the terms of the consortium CRADA in the development of the Securing Property Management Systems for the Hospitality Sector capability. Prospective participants' contribution to the collaborative effort will include assistance in establishing the necessary interface functionality, connection and set-up capabilities and procedures, demonstration harnesses, environmental and safety conditions for use, integrated platform user instructions, and demonstration plans and scripts necessary to demonstrate the desired capabilities. Each participant will train NIST personnel, as necessary, to operate its product in capability demonstrations to the Hospitality community. Following successful demonstrations, NIST will publish a description of the security platform and its performance characteristics sufficient to permit other organizations to develop and deploy security platforms that meet the security objectives of the Securing Property Management Systems for the Hospitality

Sector use case. These descriptions will be public information.

Under the terms of the consortium CRADA, NIST will support development of interfaces among participants' products by providing IT infrastructure, laboratory facilities, office facilities, collaboration facilities, and staff support to component composition, security platform documentation, and demonstration activities.

The dates of the demonstration of the Securing Property Management Systems for the Hospitality Sector capability will be announced on the NCCoE Web site at least two weeks in advance at <http://nccoe.nist.gov/>. The expected outcome of the demonstration is to improve Securing Property Management Systems across an entire Hospitality Sector enterprise. Participating organizations will gain from the knowledge that their products are interoperable with other participants' offerings.

For additional information on the NCCoE governance, business processes, and NCCoE operational structure, visit the NCCoE Web site <http://nccoe.nist.gov/>.

Kevin Kimball,
NIST Chief of Staff.

[FR Doc. 2017-25427 Filed 11-22-17; 8:45 am]

BILLING CODE 3510-13-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XF849

Fisheries of the South Atlantic; South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of its Citizen Science Advisory Panel Projects/Topics Management Action Team via webinar.

DATES: The Projects/Topics Management Action Team meeting will be held on Monday, December 11, 2017 at 3 p.m. The meeting is scheduled to last approximately 90 minutes. Additional Action Team webinar and plenary webinar dates and times will publish in a subsequent issue in the **Federal Register**.

ADDRESSES:

Meeting address: The meeting will be held via webinar and are open to members of the public. Webinar registration is required and registration links will be posted to the Citizen Science program page of the Council's Web site at www.safmc.net.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Amber Von Harten, Citizen Science Program Manager, SAFMC; phone: (843) 302-8433 or toll free (866) SAFMC-10; fax: (843) 769-4520; email: amber.vonharten@safmc.net.

SUPPLEMENTARY INFORMATION: The Council created a Citizen Science Advisory Panel Pool in June 2017. The Council appointed members of the Citizen Science Advisory Panel Pool to five Action Teams in the areas of *Volunteers, Data Management, Projects/Topics Management, Finance, and Communication/Outreach/Education* to develop program policies and operations for the Council's Citizen Science Program.

The Action Team will meet to continue work on developing recommendations on program policies and operations to be reviewed by the Council's Citizen Science Committee. Public comment will be accepted at the beginning of the meeting.

Items to be addressed during these meetings:

1. Discuss work on tasks in the Terms of Reference
2. Other Business

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the council office (see **ADDRESSES**) 3 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: November 17, 2017.

Tracey L. Thompson,
Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2017-25367 Filed 11-22-17; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Marine Mammals and Endangered Species

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

ACTION: Notice; receipt of applications for permit amendments.

SUMMARY: Notice is hereby given that the permit holders listed below have applied for an amendment to their Scientific Research Permits.

DATES: Written, telefaxed, or email comments must be received on or before December 26, 2017.

ADDRESSES: The application and related documents are available for review by selecting "Records Open for Public Comment" from the "Features" box on the Applications and Permits for Protected Species home page, <https://apps.nmfs.noaa.gov>, and then selecting the File No. from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427-8401; fax (301) 713-0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713-0376, or by email to NMFS.Pr1Comments@noaa.gov. Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on the application(s) would be appropriate.

FOR FURTHER INFORMATION CONTACT: Shasta McClenahan or Amy Hapeman, (301) 427-8401.

SUPPLEMENTARY INFORMATION: The subject amendments to the permits listed below are requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered

and threatened species (50 CFR parts 222–226).

Notices were published in the **Federal Register** on the dates listed below that

a permit had been issued to the below-named permit holders. To locate the **Federal Register** notice that announced our receipt of the application, notice of

issuance, and a complete description of the research, go to www.regulations.gov and search on the permit number provided in the table below.

File No.	RIN	Permit holder	Federal Register notice of issuance	Permit issuance date
14450	0648–XS35	NMFS Southeast Fisheries Science Center (Responsible Party: Bonnie Ponwith, Ph.D.), 75 Virginia Beach Drive, Miami, FL 33149.	79 FR 13042; March 7, 2014	March 4, 2014.
14856	0648–XB157	Bruce R. Mate, Ph.D., Hatfield Marine Science Center, Oregon State University, Newport, OR 97365.	78 FR 3346; January 21, 2014 ...	February 25, 2014.
16239	0648–XC268	Dan Engelhaupt, Ph.D., HDR, 5700 Lake Wright Drive, Norfolk, VA 23502.	78 FR 60852; October 2, 2013 ...	September 11, 2013.
17312	0648–XC268	Scripps Institution of Oceanography, (Responsible Party: John Hildebrand, Ph.D.), University of California, 8635 Discovery Way, La Jolla, CA 92093.	78 FR 60852; October 2, 2013 ...	September 11, 2013.
18636	0648–XE075	Iain Kerr, D.H.L., Ocean Alliance, 32 Horton Street, Gloucester, MA 01930.	81 FR 13342; March 14, 2016	February 17, 2016.

The permit holders are requesting amendments to their respective permits to authorize take of the Gulf of Mexico Bryde's whale (*Balaenoptera edeni*) due to NMFS' proposed rule to list this subspecies as endangered under the ESA (81 FR 88639). Combined, the permits currently authorize the following research activities for the species: manned and unmanned aerial surveys and vessel-based surveys for passive acoustic recordings, above and underwater photography and videography, photo-identification, behavioral observations, biological sampling (feces, sloughed skin, exhaled air, and skin and blubber biopsy), tracking, and tagging (suction-cup, dart/barb, and implantable). The permit holders seek to amend their permits to add dedicated takes for the Gulf of Mexico Bryde's whale using these methods should NMFS list the species under the ESA. Details of specific methods and take numbers are available in each application for amendment. The amended permits would be valid through the respective permit's current expiration date.

If the proposed ESA listing becomes final, the Permits and Conservation Division proposes to conditionally authorize the take of Gulf of Mexico Bryde's whales so that no more than the entire population (currently estimated at 33 whales) may be taken annually by methods that may result in Level A harassment (mainly biopsy and tagging) across all permits combined. Authorized takes may be re-authorized and reallocated among permits on an annual or other specified basis after evaluating the status of the species, management needs, researchers' plans, and reported takes by permit holders during the prior year.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that an environmental assessment (EA) is the appropriate level of analysis for these actions. A batched EA is being prepared to examine whether significant environmental impacts could result from issuance of the proposed scientific research permit amendments.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: November 17, 2017.

Julia Harrison,
Chief, Permits and Conservation Division,
Office of Protected Resources, National
Marine Fisheries Service.

[FR Doc. 2017–25340 Filed 11–22–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF844

Caribbean 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 Caribbean Fishery Management Council will hold its 161st meeting in December to discuss the items contained in the agenda in the **SUPPLEMENTARY INFORMATION.**

DATES: The meetings will be held on December 12–13, 2017, from 9 a.m. to 5 p.m.

ADDRESSES: The meetings will be held at the Marriott Resort San Juan Stellaris Casino Hotel, 1309 Ashford Avenue, Condado, San Juan, Puerto Rico 00907.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918–1903, telephone: (787) 766–5926.

SUPPLEMENTARY INFORMATION:

December 12, 2017, 9 a.m.–5 p.m.

- Call to Order
- Adoption of Agenda
- Consideration of 160th Council Meeting Verbatim Transcriptions
- Executive Director's Report
 - Status of the Caribbean Fisheries after the storms Irma and María
 - Puerto Rico
 - U.S. Virgin Island
- Scientific and Statistical Committee Meeting Report—Richard Appeldoorn
- Island-based Fishery Management Plans: Review of “Final” Draft Environmental Impact Statement Draft Actions and Alternatives for Each Island Group
 - Action 1: Species to Manage
 - Action 2: Species Groupings
 - Action 3: Reference Points
 - Action 4: Essential Fish Habitat for Stocks Not Previously Managed in Federal Waters
 - Action 5: Framework Measures
 - Next Steps/Timeline Review
- Ecosystem-based Fishery Management
 - Roadmap Implementation Plan Status Report
 - Update on Fishery Ecosystem Plan Development
- Other Business

—Public Comment Period—
(5-minutes presentations)

December 12, 2017, 5:30 p.m.–6:30 p.m.

- Administrative Matters
- CY 2017
- Closed Session

December 13, 2017, 9 a.m.–5 p.m.

- Outreach and Education Report—
Alida Ortiz
- Enforcement Issues:
 - Puerto Rico-DNER
 - U.S. Virgin Islands-DPNR
 - U.S. Coast Guard
 - NMFS/NOAA
- Meetings Attended by Council
Members and Staff
- Other Business
- Public Comment Period—
(5-minute presentations)
- Next Meeting

The order of business may be adjusted as necessary to accommodate the completion of agenda items. The meeting will begin on December 12, 2017 at 9 a.m. Other than the start time, interested parties should be aware that discussions may start earlier or later than indicated. In addition, the meeting may be extended from, or completed prior to the date established in this notice.

Although other non-emergency issues not on the agenda may come before this group for discussion, those issues may not be the subject of formal action during these meetings. Actions will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice 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 Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. For more information or request for sign language interpretation and other auxiliary aids, please contact Mr. Miguel A. Rolón, Executive Director, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico, 00918–1903, telephone: (787) 766–5926, at least 5 days prior to the meeting date.

Dated: November 17, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–25366 Filed 11–22–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Greater Atlantic Region Vessel Identification Requirements.

OMB Control Number: 0648–0350.

Form Number(s): None.

Type of Request: Regular (extension of a currently approved information collection).

Number of Respondents: 3,665.

Average Hours per Response: 45 minutes.

Burden Hours: 2,749.

Needs and Uses: Regulations at 50 CFR 648.8 and 697.8 require that owners of vessels over 25 ft (7.6 m) in registered length that have Federal permits to fish in the Greater Atlantic Region display the vessel's name and official number. The name and number must be of a specific size at specified locations: The vessel name must be affixed to the port and starboard sides of the bow and, if possible, on its stern. The official number must be displayed on the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck so as to be clearly visible from enforcement vessels and aircraft. The display of the identifying characters aids in fishery law enforcement.

Affected Public: Business or other for-profit organizations.

Frequency: Annually.

Respondent's Obligation: Mandatory.

This information collection request may be viewed at *reginfo.gov*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed

information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: November 20, 2017.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2017–25378 Filed 11–22–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE477

SAW–SARC 64 Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: NMFS and the Northeast Regional Stock Assessment Workshop (SAW) will convene the 64th SAW Stock Assessment Review Committee for the purpose of reviewing the stock assessment of Atlantic mackerel. The Northeast Regional SAW is a formal scientific peer-review process for evaluating and presenting stock assessment results to managers for fish stocks in the offshore U.S. waters of the northwest Atlantic. Assessments are prepared by SAW working groups and reviewed by an independent panel of stock assessment experts called the Stock Assessment Review Committee, or SARC. The public is invited to attend the presentations and discussions between the review panel and the scientists who have participated in the stock assessment process.

DATES: The public portion of the Stock Assessment Review Committee Meeting will be held from November 28, 2017–November 30, 2017. The meeting will commence on November 28, 2017 at 10 a.m. Eastern Standard Time. Please see **SUPPLEMENTARY INFORMATION** for the daily meeting agenda.

ADDRESSES: The meeting will be held in the S.H. Clark Conference Room in the Aquarium Building of the National Marine Fisheries Service, Northeast Fisheries Science Center (NEFSC), 166 Water Street, Woods Hole, MA 02543.

FOR FURTHER INFORMATION CONTACT: Sheena Steiner, 508–495–2177; email: *sheena.steiner@noaa.gov*; or, James

Weinberg, 508-495-2352; email: james.weinberg@noaa.gov.

SUPPLEMENTARY INFORMATION: For further information, please visit the NEFSC Web site at <http://www.nefsc.noaa.gov>. For additional information about the SARC meeting

and the stock assessment review of Atlantic mackerel, please visit the NMFS/NEFSC SAW Web page at <http://www.nefsc.noaa.gov/saw/>.

DAILY MEETING AGENDA—SAW/SARC 64 Benchmark Stock Assessment for Atlantic mackerel. (Subject to Change; All times are approximate and may be changed at the discretion of the SARC Chair)

Tuesday, November 28, 2017

10 a.m.–10:30 a.m	Welcome Introductions	James Weinberg, SAW Chair.
10:30 a.m.–12:30 p.m	Atlantic mackerel (AM) Assessment Presentation.	Kiersten Curti.
12:30 p.m.–1:30 p.m	Lunch.	
1:30 p.m.–3:30 p.m	AM Presentation (cont.)	Kiersten Curti.
3:30 p.m.–3:45 p.m	Break.	
3:45 p.m.–5:45 p.m	AM SARC Discussion	John Boreman, SARC Chair.
5:45 p.m.–6 p.m	Public Comment Period.	

Wednesday, November 29, 2017

9:00 a.m.–10:45 a.m	Revisit with AM presenters	John Boreman.
10:45 a.m.–11:00 a.m	Break.	
11:00 a.m.–11:45 a.m	Revisit with AM presenters	John Boreman.
11:45 a.m.–12:00 p.m	Public Comment.	
12:00–1:15 p.m	Lunch.	
1:15 p.m.–4:00 p.m	Review/Edit Assessment Summary Report	John Boreman.
4:00 p.m.–4:15 p.m	Break.	
4:15 p.m.–5:00 p.m	SARC Report Writing.	

Thursday, November 30, 2017

9 a.m.–5 p.m	SARC Report Writing.	
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The meeting is open to the public; however, during the “SARC Report Writing” sessions on November 29th and 30th, the public should not engage in discussion with the SARC.

Special Accommodations

This meeting is physically accessible to people with disabilities. Special requests should be directed to Sheena Steiner at the NEFSC, 508-495-2177, at least 5 days prior to the meeting date.

Dated: November 17, 2017.

Emily H. Menashes,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2017-25334 Filed 11-22-17; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XF845

Fisheries of the South Atlantic; South Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of meetings of the South Atlantic Fishery Management Council’s Citizen Science Advisory Panel Volunteers; Communication/Outreach/Education; and Data Management Action Teams.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold meetings of its Citizen Science Advisory Panel Volunteers; Communication/Outreach/Education; and Data Management Action Teams via webinar.

DATES: The Volunteers Team meeting will be held on Tuesday, December 12, 2017 at 1 p.m.; Communication/Outreach/Education Team on Thursday, December 14, 2017 at 2 p.m.; and Data Management Team on Friday, December 15, 2017 at 10 a.m. Each meeting is scheduled to last approximately 90 minutes. Additional Action Team webinar and plenary webinar dates and times will publish in a subsequent issue in the **Federal Register**.

ADDRESSES:

Meeting address: The meetings will be held via webinar and are open to members of the public. Webinar registration is required and registration

links will be posted to the Citizen Science program page of the Council’s Web site at www.safmc.net.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Amber Von Harten, Citizen Science Program Manager, SAFMC; phone: (843) 302-8433 or toll free (866) SAFMC-10; fax: (843) 769-4520; email: amber.vonharten@safmc.net.

SUPPLEMENTARY INFORMATION: The Council created a Citizen Science Advisory Panel Pool in June 2017. The Council appointed members of the Citizen Science Advisory Panel Pool to five Action Teams in the areas of *Volunteers, Data Management, Projects/Topics Management, Finance, and Communication/Outreach/Education* to develop program policies and operations for the Council’s Citizen Science Program.

Each Action Team will meet to continue work on developing recommendations on program policies and operations to be reviewed by the Council’s Citizen Science Committee. Public comment will be accepted at the beginning of the meeting.

Items to be addressed during these meetings:

1. Discuss work on tasks in the Terms of Reference
2. Other Business

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 3 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: November 17, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017-25368 Filed 11-22-17; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XF841

Fisheries of the Gulf of Mexico; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 51 Assessment Webinar VI for Gulf of Mexico gray snapper.

SUMMARY: The SEDAR 51 stock assessment process for Gulf of Mexico gray snapper will consist of a Data Workshop, a series of assessment webinars, and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 51 Assessment Webinar VI will be held December 11, 2017, from 2 p.m. to 4 p.m. Eastern Time.

ADDRESSES: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; phone:

(843) 571-4366; email: *Julie.neer@safmc.net*.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop, (2) a series of assessment webinars, and (3) A Review Workshop. The product of the Data Workshop is a report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The assessment webinars produce a report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The product of the Review Workshop is an Assessment Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion during the Assessment Webinar VI are as follows:

1. Using datasets and initial assessment analysis recommended from the Data Workshop, panelists will employ assessment models to evaluate stock status, estimate population benchmarks and management criteria, and project future conditions.
2. Participants will recommend the most appropriate methods and configurations for determining stock status and estimating population parameters.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice

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 meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: November 17, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017-25365 Filed 11-22-17; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).
Title: Recreational Angler Survey of Sea Turtle Interactions.

OMB Control Number: 0648-xxxx.

Form Number(s): None.

Type of Request: Regular (request for a new information collection).

Number of Respondents: 12,300.

Average Hours per Response: 5 minutes each for angler intercept interviews and sea turtle incidental take capture forms.

Burden Hours: 1,025.

Needs and Uses: This request is for a new information collection.

NOAA NMFS would like to conduct an intercept survey to assess the extent of interactions between recreational anglers on piers and other shore-based fishing structures, and sea turtles. This survey will also assess the feasibility of an intercept survey for this purpose in terms response rates and data collection. The survey will be administered on piers and other fixed structures nationwide, but focused within NOAA Fisheries Greater Atlantic Region and

Southeast Region, and will survey approximately 36,000 individual recreational fishermen. The respondents will be verbally asked a series of questions, no longer than 5 minutes, and the interviewer will record answers. Members of the Sea Turtle Stranding and Salvage Network will also complete sea turtle incidental take capture forms when applicable.

Affected Public: Individuals or households.

Frequency: One time.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at reginfo.gov. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to OIRA_Submission@omb.eop.gov or fax to (202) 395-5806.

Dated: November 20, 2017.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2017-25376 Filed 11-22-17; 8:45 am]

BILLING CODE 3510-22-P

and the location of the tagging. The information obtained is used in conjunction with tag returns to determine billfish migration patterns, mortality rates, and similar information useful in the management of the billfish fisheries. This program is authorized under 16 U.S.C. 760(e), Study of migratory game fish; waters; research; purpose.

Affected Public: Individuals and households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at reginfo.gov. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to OIRA_Submission@omb.eop.gov or fax to (202) 395-5806.

Dated: November 20, 2017.

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[FR Doc. 2017-25377 Filed 11-22-17; 8:45 am]

BILLING CODE 3510-22-P

broadband network (NPSBN) that allows law enforcement officers, fire fighters, emergency medical service professionals, and other public safety officials to effectively communicate with each other across agencies and jurisdictions. Public safety workers have long been hindered in their ability to respond in a crisis situation because of incompatible communications networks and often outdated communications equipment.

The Act established the First Responder Network Authority (FirstNet) as an independent authority within NTIA and authorizes it to take all actions necessary to ensure the design, construction, and operation of the NPSBN, based on a single, national network architecture.

The Act also charged NTIA with establishing a grant program, the State and Local Implementation Grant Program (SLIGP), to assist State, regional, tribal, and local jurisdictions with identifying, planning, and implementing the most efficient and effective means to use and integrate the infrastructure, equipment, and other architecture associated with the NPSBN to satisfy the wireless broadband and data services needs of their jurisdictions. NTIA originally awarded \$116.5 million in grant funds to 54 state and territorial recipients between July and September 2013. The original SLIGP grant awards end on February 28, 2018.

With an available balance of up to \$43.4 million from the original SLIGP fund of \$116.5 million, NTIA will continue to provide funding through SLIGP 2.0 grants to assist State, regional, tribal, and local jurisdictions to engage effectively with FirstNet and provide it with information needed to continue with planning the NPSBN and the deployment of the Radio Access Network (RAN) in an effective and timely manner, as required by the Act. NTIA will use the collection of information to monitor and evaluate how SLIGP 2.0 grant recipients are achieving the core purposes of the program established by the Act.

NTIA received one comment during the 60-Day PRA Notice comment period. The Bureau of Communications and Information Services of the Pennsylvania State Police submitted comments to NTIA. Two of its comments are in agreement with NTIA's proposed data collection and the estimated burden of hours and costs to submit required reporting for SLIGP 2.0 grantees.

It also commented on comparing quarterly progress to a grantee's baseline, allowing a single quarterly

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Billfish Tagging Report.

OMB Control Number: 0648-0009.

Form Number(s): 88-162.

Type of Request: Regular (extension of a currently approved information collection).

Number of Respondents: 1,000.

Average Hours per Response: 5 minutes.

Burden Hours: 83.

Needs and Uses: This request is for extension of a currently approved information collection. The National Oceanic and Atmospheric Administration's Southwest Fisheries Science Center operates a billfish tagging program. Tagging supplies are provided to volunteer anglers. When anglers catch and release a tagged fish they submit a brief report on the fish

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Agency Information Collection Activities; Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Telecommunications and Information Administration.

Title: State and Local Implementation Grant Program 2.0 Reporting Requirements.

OMB Control Number: None.

Form Number(s): None.

Type of Request: Regular submission.

Number of Respondents: 56.

Average Hours per Response:

Quarterly reports 12.5 hours.

Burden Hours: 2,800.

Needs and Uses: The Middle Class Tax Relief and Job Creation Act of 2012 (Act, Pub. L. 112-96, 126 Stat. 156 (2012)) was enacted in February, 2012. The Act meets a long-standing national priority, as well as a critical national infrastructure need, to create a single, interoperable, nationwide public safety

narrative including graphs and charts and submitting reports electronically including an electronic signature. Under SLIGP 2.0, NTIA will not require that grantees provide quarterly to baseline progress comparisons and has reduced narrative reporting as compared to SLIGP 1.0 reporting requirements. NTIA has determined that grantees may include graphs and charts to complement required quarterly reporting, and electronic signatures of authorized officials are acceptable for certification purposes. While using an on-line portal may be advantageous, the limited amount and frequency of data to be collected over the duration of the SLIGP 2.0 grant period of performance and the associated costs of establishing an electronic on-line portal mechanism makes such an investment prohibitive.

The publication of this notice allows NTIA to begin the process to request OMB approval to collect information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Affected Public: State, regional, local and tribal government organizations.

Frequency: Quarterly.

Respondent's Obligation: This information collection request may be viewed at reginfo.gov. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to OIRA_Submission@omb.eop.gov or fax to (202) 395-5806.

Sheleen Dumas,

PRA Department Lead, Office of the Chief Information Officer.

[FR Doc. 2017-25389 Filed 11-22-17; 8:45 am]

BILLING CODE 3510-60-P

BUREAU OF CONSUMER FINANCIAL PROTECTION

Final Redesigned Uniform Residential Loan Application Status Under Regulation B

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Bureau official approval.

SUMMARY: The Bureau of Consumer Financial Protection is publishing a notice pursuant to section 706(e) of the Equal Credit Opportunity Act concerning the update of the redesigned Uniform Residential Loan Application to include an applicant language preference question.

DATES: This official approval is issued November 20, 2017.

FOR FURTHER INFORMATION CONTACT: Marta Tanenhaus and James Wylie, Senior Counsels, Office of Regulations, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552, at 202-435-7700.

SUPPLEMENTARY INFORMATION:

I. Background

The Bureau of Consumer Financial Protection (Bureau) administers the Equal Credit Opportunity Act (ECOA), 15 U.S.C. 1691, *et seq.* and its implementing regulation, Regulation B, 12 CFR part 1002. Section 706(e) of ECOA, as amended, provides that no provision of ECOA imposing liability shall apply to any act done or omitted in good faith in conformity with any official rule, regulation, or interpretation thereof by the Bureau or in conformity with any interpretation or approval by an official or employee of the Bureau duly authorized by the Bureau to issue such an interpretation or approval. This notice (Bureau official approval) constitutes such an interpretation or approval, and therefore section 706(e) protects a creditor from civil liability under ECOA for any act done or omitted in good faith in conformity with this notice.

The Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association (collectively, the Enterprises), under the conservatorship of the Federal Housing Finance Agency (FHFA), issued a revised and redesigned Uniform Residential Loan Application on August 23, 2016 (redesigned URLA). That issuance was part of the effort of these entities to update the Uniform Loan Application Dataset (ULAD) in conjunction with the redesigned URLA. Bureau staff reviewed the redesigned URLA in accordance with the request by FHFA and the Enterprises for a Bureau official approval of the redesigned URLA under ECOA and Regulation B, and the Bureau issued a Bureau official approval notice on September 23, 2016, which was published in the **Federal Register** on September 29, 2016.¹ That notice states that Bureau staff determined that the relevant language in the redesigned URLA is in compliance with the regulatory provisions of Regulation B § 1002.5(b) through (d), regarding requests for protected applicant-characteristic information and certain other information. The notice also recognizes that the use of the redesigned URLA by creditors is not

required under Regulation B. The notice goes on to state that a creditor that uses the redesigned URLA without any modification that would violate § 1002.5(b) through (d) would act in compliance with § 1002.5(b) through (d).

On November 17, 2017, the Enterprises, under the conservatorship of the FHFA, issued an update to the redesigned URLA that included, among other modifications, an additional question concerning an applicant's language preference (final redesigned URLA).² Bureau staff has reviewed the final redesigned URLA, including the additional language preference question, in accordance with the request by FHFA for a Bureau official approval under ECOA and Regulation B. Bureau staff specifically reviewed the question with respect to Regulation B § 1002.5(b) concerning requests for information about national origin.

II. Bureau Official Approval

Bureau staff has determined that the final redesigned URLA is in compliance with § 1002.5(b) through (d).³ A creditor's use of the final redesigned URLA without any modification that would violate § 1002.5(b) through (d) would act in compliance with § 1002.5(b) through (d). Bureau staff has also determined that because the substance and form of section 7 of the final redesigned URLA is substantially similar to the form the Bureau provides as a model form in Regulation C, the final redesigned URLA may be used in complying with § 1002.13.⁴ A creditor's

² See final redesigned URLA (Borrower Information, Additional Borrower, Unmarried Addendum, Lender Loan Information, Continuation Sheet, and Demographic Information Addendum) attached to this notice under Section IV. See also <https://www.fanniemae.com/singlefamily/uniform-residential-loan-application> and <http://www.freddiemac.com/singlefamily/sell/ulad.html>.

³ Regulation B § 1002.5(b) provides rules concerning requests for information about race, color, religion, national origin, or sex. Section 1002.5(c) provides rules concerning requests for information about a spouse or former spouse. Section 1002.5(d) provides rules concerning requests for information regarding marital status; income from alimony, child support, or separate maintenance; and childbearing or childrearing.

⁴ Regulation C implements the Home Mortgage Disclosure Act (HMDA). See Regulation C, 12 CFR part 1003, appendix B, Sample Data Collection Form. Effective January 1, 2018, Regulation B § 1002.13(a) comment 7 provides that, "[f]or applications subject to § 1002.13(a)(1), a creditor that collects information about the ethnicity, race, and sex of an applicant in compliance with the requirements of appendix B to 12 CFR part 1003 is acting in compliance with § 1002.13 concerning the collection of an applicant's ethnicity, race, and sex information." See Amendments to Equal Credit Opportunity Act (Regulation B) Ethnicity and Race Information Collection, 82 FR 45680, 45689 (Oct. 2, 2017).

¹ 81 FR 66930 (Sept. 29, 2016), <https://www.federalregister.gov/documents/2016/09/29/2016-23555/status-of-new-uniform-residential-loan-application-and-collection-of-expanded-home-mortgage>. The redesigned URLA is attached to the notice.

use of the final redesigned URLA is not required under Regulation B.

The issuance of this Bureau official approval has been duly authorized by the Director of the Bureau and provides the protection afforded under section 706(e) of ECOA.

III. Regulatory Requirements

This Bureau official approval is an approval or interpretation exempt from notice and comment rulemaking requirements under the Administrative Procedure Act. *See* 5 U.S.C. 551, 553(b). Because no notice of proposed

rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis. 5 U.S.C. 603(a), 604(a). The Bureau has determined that this notice does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring approval from the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*

The existing information collections required by ECOA and Regulation B have been approved by OMB under OMB Control #3170-0013, and the information collections for HMDA and Regulation C are approved under OMB Control #3170-0008. The Bureau's approval of the updated redesigned URLA does not add or alter any information collections approved under either rule.

IV. Final Redesigned Uniform Residential Loan Application

BILLING CODE 4810-AM-P

To be completed by the Lender:
 Lender Loan No./Universal Loan Identifier _____ Agency Case No. _____

Uniform Residential Loan Application

Verify and complete the information on this application. If you are applying for this loan with others, each additional Borrower must provide information as directed by your Lender.

Section 1: Borrower Information. This section asks about your personal information and your income from employment and other sources, such as retirement, that you want considered to qualify for this loan.

1a. Personal Information

<p>Name (First, Middle, Last, Suffix) _____</p> <p>Alternate Names – List any names by which you are known or any names under which credit was previously received (First, Middle, Last, Suffix): _____</p>	<p>Social Security Number _____ (or Individual Taxpayer Identification Number)</p> <p>Date of Birth (mm/dd/yyyy) _____/_____/_____</p> <p>Citizenship <input type="radio"/> U.S. Citizen <input type="radio"/> Permanent Resident Alien <input type="radio"/> Non-Permanent Resident Alien</p>
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<p>Type of Credit <input type="radio"/> I am applying for individual credit. <input type="radio"/> I am applying for joint credit. Total Number of Borrowers: _____ Each Borrower intends to apply for joint credit. Your initials: _____</p>	<p>List Name(s) of Other Borrower(s) Applying for this Loan (First, Middle, Last, Suffix) _____</p>
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<p>Marital Status <input type="radio"/> Married <input type="radio"/> Separated <input type="radio"/> Unmarried (Single, Divorced, Widowed, Civil Union, Domestic Partnership, Registered Reciprocal Beneficiary Relationship)</p>	<p>Dependents (not listed by another Borrower) Number _____ Ages _____</p>	<p>Contact Information Home Phone (____) _____-_____ Cell Phone (____) _____-_____ Work Phone (____) _____-_____ Ext. _____ Email _____</p>
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Current Address:
 Street _____ Unit # _____
 City _____ State _____ ZIP _____ Country _____
 How Long at Current Address? ____ Years ____ Months **Housing** No primary housing expense Own Rent (\$ _____ /month)

If at Current Address for LESS than 2 years, list Former Address Does not apply
 Street _____ Unit # _____
 City _____ State _____ ZIP _____ Country _____
 How Long at Former Address? ____ Years ____ Months **Housing** No primary housing expense Own Rent (\$ _____ /month)

Mailing Address – if different from Current Address: Does not apply
 Street _____ Unit # _____
 City _____ State _____ ZIP _____ Country _____

Military Service – Did you (or your deceased spouse) ever serve, or are you currently serving, in the United States Armed Forces? NO YES
 If YES, check all that apply: Currently serving on active duty with projected expiration date of service/tour ____/____/____ (mm/yyyy)
 Currently retired, discharged, or separated from service
 Only period of service was as a non-activated member of the Reserve or National Guard
 Surviving spouse

Language Preference – Your loan transaction is likely to be conducted in English. This question requests information to see if communications are available to assist you in your preferred language. Please be aware that communications may NOT be available in your preferred language.

Optional – Mark the language you would prefer, if available:
 English Chinese Korean Spanish Tagalog Vietnamese Other: _____ I do not wish to respond

Your answer will NOT negatively affect your mortgage application. Your answer does not mean the Lender or Other Loan Participants agree to communicate or provide documents in your preferred language. However, it may let them assist you or direct you to persons who can assist you.

Language assistance and resources may be available through housing counseling agencies approved by the U.S. Department of Housing and Urban Development. To find a housing counseling agency, contact one of the following Federal government agencies:

- U.S. Department of Housing and Urban Development (HUD) at (800) 569-4287 or www.hud.gov/counseling.
- Consumer Financial Protection Bureau (CFPB) at (855) 411-2372 or www.consumerfinance.gov/find-a-housing-counselor.

1b. Current Employment/Self-Employment and Income Does not apply

Employer or Business Name _____ Phone (____) _____ - _____ Street _____ City _____ State _____ ZIP _____		Gross Monthly Income Base: \$ _____ /month Overtime: \$ _____ /month Bonus: \$ _____ /month Commission: \$ _____ /month Military Entitlements: \$ _____ /month Other: \$ _____ /month TOTAL \$ _____ /month
Position or Title _____ Start Date ____/____/____ (mm/yyyy) How long in this line of work? ____ Years ____ Months	Check if this statement applies: <input type="checkbox"/> I am employed by a family member, property seller, real estate agent, or other party to the transaction.	
<input type="checkbox"/> Check if you are the Business Owner or Self-Employed <input type="radio"/> I have an ownership share of less than 25%. <input type="radio"/> I have an ownership share of 25% or more.		Monthly Income (or Loss) \$ _____

1c. IF APPLICABLE, Complete Information for Additional Employment/Self-Employment and Income Does not apply

Employer or Business Name _____ Phone (____) _____ - _____ Street _____ City _____ State _____ ZIP _____		Gross Monthly Income Base: \$ _____ /month Overtime: \$ _____ /month Bonus: \$ _____ /month Commission: \$ _____ /month Military Entitlements: \$ _____ /month Other: \$ _____ /month TOTAL \$ _____ /month
Position or Title _____ Start Date ____/____/____ (mm/yyyy) How long in this line of work? ____ Years ____ Months	Check if this statement applies: <input type="checkbox"/> I am employed by a family member, property seller, real estate agent, or other party to the transaction.	
<input type="checkbox"/> Check if you are the Business Owner or Self-Employed <input type="radio"/> I have an ownership share of less than 25%. <input type="radio"/> I have an ownership share of 25% or more.		Monthly Income (or Loss) \$ _____

1d. IF APPLICABLE, Complete Information for Previous Employment/Self-Employment and Income Does not apply

Provide at least 2 years of current and previous employment and income.

Employer or Business Name _____ Street _____ City _____ State _____ ZIP _____ Position or Title _____ Start Date ____/____/____ (mm/yyyy) End Date ____/____/____ (mm/yyyy)	<input type="checkbox"/> Check if you were the Business Owner or Self-Employed	Previous Gross Monthly Income \$ _____
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1e. Income from Other Sources Does not apply

Include income from other sources below. Under Income Source, choose from the sources listed here:

• Alimony	• Child Support	• Interest and Dividends	• Notes Receivable	• Royalty Payments	• Unemployment Benefits
• Automobile Allowance	• Disability	• Mortgage Credit Certificate	• Public Assistance	• Separate Maintenance	• VA Compensation
• Boarder Income	• Foster Care	• Mortgage Differential Payments	• Retirement (e.g., Pension, IRA)	• Social Security	• Other
• Capital Gains	• Housing or Parsonage			• Trust	

NOTE: Reveal alimony, child support, separate maintenance, or other income ONLY if you want it considered in determining your qualification for this loan.

Income Source - use list above	Monthly Income
_____	\$ _____
_____	\$ _____
_____	\$ _____
Provide TOTAL Amount Here	\$ _____

Borrower Name: _____
 Uniform Residential Loan Application
 Freddie Mac Form 65 • Fannie Mae Form 1003
 Effective 07/2019

Section 2: Financial Information — Assets and Liabilities. This section asks about things you own that are worth money and that you want considered to qualify for this loan. It then asks about your liabilities (or debts) that you pay each month, such as credit cards, alimony, or other expenses.

2a. Assets – Bank Accounts, Retirement, and Other Accounts You Have

Include all accounts below. Under Account Type, choose from the types listed here:

- Checking
- Savings
- Money Market
- Certificate of Deposit
- Mutual Fund
- Stocks
- Stock Options
- Bonds
- Retirement (e.g., 401k, IRA)
- Bridge Loan Proceeds
- Individual Development Account
- Trust Account
- Cash Value of Life Insurance (used for the transaction)

Account Type – use list above	Financial Institution	Account Number	Cash or Market Value
			\$
			\$
			\$
			\$
			\$
Provide TOTAL Amount Here			\$

2b. Other Assets You Have Does not apply

Include all other assets below. Under Asset Type, choose from the types listed here:

- Earnest Money
- Proceeds from Sale of Non-Real Estate Asset
- Proceeds from Real Estate Property to be sold on or before closing
- Sweat Equity
- Employer Assistance
- Rent Credit
- Secured Borrowed Funds
- Trade Equity
- Unsecured Borrowed Funds
- Other

Asset Type – use list above	Cash or Market Value
	\$
	\$
	\$
Provide TOTAL Amount Here	
	\$

2c. Liabilities – Credit Cards, Other Debts, and Leases that You Owe Does not apply

List all liabilities below (except real estate) and include deferred payments. Under Account Type, choose from the types listed here:

- Revolving (e.g., credit cards)
- Installment (e.g., car, student, personal loans)
- Open 30-Day (balance paid monthly)
- Lease (not real estate)
- Other

Account Type – use list above	Company Name	Account Number	Unpaid Balance	To be paid off at or before closing	Monthly Payment
			\$	<input type="checkbox"/>	\$
			\$	<input type="checkbox"/>	\$
			\$	<input type="checkbox"/>	\$
			\$	<input type="checkbox"/>	\$
			\$	<input type="checkbox"/>	\$

2d. Other Liabilities and Expenses Does not apply

Include all other liabilities and expenses below. Choose from the types listed here:

- Alimony
- Child Support
- Separate Maintenance
- Job Related Expenses
- Other

	Monthly Payment
	\$
	\$
	\$

Borrower Name: _____
 Uniform Residential Loan Application
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Section 3: Financial Information — Real Estate. This section asks you to list all properties you currently own and what you owe on them. *I do not own any real estate.*

3a. Property You Own *Does not apply* **If you are refinancing, list the property you are refinancing FIRST.**

Address
 Street _____ Unit # _____ City _____ State _____ ZIP _____

Property Value	Status: Sold, Pending Sale, or Retained	Monthly Insurance, Taxes, Association Dues, etc. <i>if not included in Monthly Mortgage Payment.</i>	For Investment Property Only	
			Monthly Rental Income	For LENDER to calculate: Net Monthly Rental Income
\$ _____		\$ _____	\$ _____	\$ _____

Mortgage Loans on this Property *Does not apply*

Creditor Name	Account Number	Monthly Mortgage Payment	Unpaid Balance <i>To be paid off at or before closing.</i>	Type: FHA, VA, Conventional, USDA-RD, Other	Credit Limit <i>(if applicable)</i>
		\$ _____	\$ _____ <input type="checkbox"/>		\$ _____
		\$ _____	\$ _____ <input type="checkbox"/>		\$ _____

3b. IF APPLICABLE, Complete Information for Additional Property *Does not apply*

Address
 Street _____ Unit # _____ City _____ State _____ ZIP _____

Property Value	Status: Sold, Pending Sale, or Retained	Monthly Insurance, Taxes, Association Dues, etc. <i>if not included in Monthly Mortgage Payment.</i>	For Investment Property Only	
			Monthly Rental Income	For LENDER to calculate: Net Monthly Rental Income
\$ _____		\$ _____	\$ _____	\$ _____

Mortgage Loans on this Property *Does not apply*

Creditor Name	Account Number	Monthly Mortgage Payment	Unpaid Balance <i>To be paid off at or before closing.</i>	Type: FHA, VA, Conventional, USDA-RD, Other	Credit Limit <i>(if applicable)</i>
		\$ _____	\$ _____ <input type="checkbox"/>		\$ _____
		\$ _____	\$ _____ <input type="checkbox"/>		\$ _____

3c. IF APPLICABLE, Complete Information for Additional Property *Does not apply*

Address
 Street _____ Unit # _____ City _____ State _____ ZIP _____

Property Value	Status: Sold, Pending Sale, or Retained	Monthly Insurance, Taxes, Association Dues, etc. <i>if not included in Monthly Mortgage Payment.</i>	For Investment Property Only	
			Monthly Rental Income	For LENDER to calculate: Net Monthly Rental Income
\$ _____		\$ _____	\$ _____	\$ _____

Mortgage Loans on this Property *Does not apply*

Creditor Name	Account Number	Monthly Mortgage Payment	Unpaid Balance <i>To be paid off at or before closing.</i>	Type: FHA, VA, Conventional, USDA-RD, Other	Credit Limit <i>(if applicable)</i>
		\$ _____	\$ _____ <input type="checkbox"/>		\$ _____
		\$ _____	\$ _____ <input type="checkbox"/>		\$ _____

Borrower Name: _____
 Uniform Residential Loan Application
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Section 4: Loan and Property Information. This section asks about the loan's purpose and the property you want to purchase or refinance.

4a. Loan and Property Information

Loan Amount \$ _____ Loan Purpose Purchase Refinance Other (specify) _____

Property Address: Street _____ Unit # _____
 City _____ State _____ ZIP _____
 County _____ Number of Units _____ Property Value \$ _____

Occupancy Primary Residence Second Home Investment Property FHA Secondary Residence

1. **Mixed-Use Property.** If you will occupy the property, will you set aside space within the property to operate your own business? (e.g., daycare facility, medical office, beauty/barber shop) NO YES

2. **Manufactured Home.** Is the property a manufactured home? (e.g., a factory built dwelling built on a permanent chassis) NO YES

4b. Other New Mortgage Loans on the Property You are Buying or Refinancing

Does not apply

Creditor Name	Lien Type	Monthly Payment	Loan Amount/ Amount to be Drawn	Credit Limit (if applicable)
	<input type="radio"/> First Lien <input type="radio"/> Subordinate Lien	\$ _____	\$ _____	\$ _____
	<input type="radio"/> First Lien <input type="radio"/> Subordinate Lien	\$ _____	\$ _____	\$ _____

4c. Rental Income on the Property You Want to Purchase

For Purchase Only Does not apply

Complete if the property is a 2-4 Unit Primary Residence or an Investment Property	Amount
Expected Monthly Rental Income	\$ _____
For LENDER to calculate: Expected Net Monthly Rental Income	\$ _____

4d. Gifts or Grants You Have Been Given or Will Receive for this Loan

Does not apply

Include all gifts and grants below. Under Source, choose from the sources listed here:

- Relative - Employer + Community Nonprofit + State Agency - Other
- Unmarried Partner - Religious Nonprofit - Federal Agency - Local Agency

Asset Type: Cash Gift, Gift of Equity, Grant	Deposited/Not Deposited	Source – use list above	Cash or Market Value
	<input type="radio"/> Deposited <input type="radio"/> Not Deposited		\$ _____
	<input type="radio"/> Deposited <input type="radio"/> Not Deposited		\$ _____

Borrower Name: _____

Uniform Residential Loan Application
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Section 5: Declarations. This section asks you specific questions about the property, your funding, and your past financial history.

5a. About this Property and Your Money for this Loan

A. Will you occupy the property as your primary residence? If YES, have you had an ownership interest in another property in the last three years? If YES, complete (1) and (2) below: (1) What type of property did you own: primary residence (PR), FHA secondary residence (SR), second home (SH), or investment property (IP)? (2) How did you hold title to the property: by yourself (S), jointly with your spouse (SP), or jointly with another person (O)?	<input type="radio"/> NO <input type="radio"/> YES <input type="radio"/> NO <input type="radio"/> YES _____ _____
B. If this is a Purchase Transaction: Do you have a family relationship or business affiliation with the seller of the property?	<input type="radio"/> NO <input type="radio"/> YES
C. Are you borrowing any money for this real estate transaction (e.g., money for your closing costs or down payment) or obtaining any money from another party, such as the seller or realtor, that you have not disclosed on this loan application? If YES, what is the amount of this money?	<input type="radio"/> NO <input type="radio"/> YES \$ _____
D. 1. Have you or will you be applying for a mortgage loan on another property (not the property securing this loan) on or before closing this transaction that is not disclosed on this loan application? 2. Have you or will you be applying for any new credit (e.g., installment loan, credit card, etc.) on or before closing this loan that is not disclosed on this application?	<input type="radio"/> NO <input type="radio"/> YES <input type="radio"/> NO <input type="radio"/> YES
E. Will this property be subject to a lien that could take priority over the first mortgage lien, such as a clean energy lien paid through your property taxes (e.g., the Property Assessed Clean Energy Program)?	<input type="radio"/> NO <input type="radio"/> YES

5b. About Your Finances

F. Are you a co-signer or guarantor on any debt or loan that is not disclosed on this application?	<input type="radio"/> NO <input type="radio"/> YES
G. Are there any outstanding judgments against you?	<input type="radio"/> NO <input type="radio"/> YES
H. Are you currently delinquent or in default on a federal debt?	<input type="radio"/> NO <input type="radio"/> YES
I. Are you a party to a lawsuit in which you potentially have any personal financial liability?	<input type="radio"/> NO <input type="radio"/> YES
J. Have you conveyed title to any property in lieu of foreclosure in the past 7 years?	<input type="radio"/> NO <input type="radio"/> YES
K. Within the past 7 years, have you completed a pre-foreclosure sale or short sale, whereby the property was sold to a third party and the Lender agreed to accept less than the outstanding mortgage balance due?	<input type="radio"/> NO <input type="radio"/> YES
L. Have you had property foreclosed upon in the last 7 years?	<input type="radio"/> NO <input type="radio"/> YES
M. Have you declared bankruptcy within the past 7 years? If YES, identify the type(s) of bankruptcy: <input type="checkbox"/> Chapter 7 <input type="checkbox"/> Chapter 11 <input type="checkbox"/> Chapter 12 <input type="checkbox"/> Chapter 13	<input type="radio"/> NO <input type="radio"/> YES

Borrower Name: _____

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Section 6: Acknowledgments and Agreements. This section tells you about your legal obligations when you sign this application.

Acknowledgments and Agreements

I agree to, acknowledge, and represent the following statements to:

- The Lender (this includes the Lender's agents, service providers and any of their successors and assigns); AND
- Other Loan Participants (this includes any actual or potential owners of a loan resulting from this application (the "Loan"), or acquirers of any beneficial or other interest in the Loan, any mortgage insurer, guarantor, any servicers or service providers of the Loan, and any of their successors and assigns).

By signing below, I agree to, acknowledge, and represent the following statements about:

(1) The Complete Information for this Application

- The information I have provided in this application is true, accurate, and complete as of the date I signed this application.
- If the information I submitted changes or I have new information before closing of the Loan, I must change and supplement this application or any real estate sales contract, including providing any updated/supplemented real estate sales contract.
- For purchase transactions: The terms and conditions of any real estate sales contract signed by me in connection with this application are true, accurate, and complete to the best of my knowledge and belief. I have not entered into any other agreement, written or oral, in connection with this real estate transaction.
- The Lender and Other Loan Participants may rely on the information contained in the application before and after closing of the Loan.
- Any intentional or negligent misrepresentation of information may result in the imposition of:
 - (a) civil liability on me, including monetary damages, if a person suffers any loss because the person relied on any misrepresentation that I have made on this application, and/or
 - (b) criminal penalties on me including, but not limited to, fine or imprisonment or both under the provisions of federal law (18 U.S.C. §§ 1001 *et seq.*).

(2) The Property's Security

- The Loan I have applied for in this application will be secured by a mortgage or deed of trust which provides the Lender a security interest in the property described in this application.

(3) The Property's Appraisal, Value, and Condition

- Any appraisal or value of the property obtained by the Lender is for use by the Lender and Other Loan Participants.
- The Lender and Other Loan Participants have not made any representation or warranty, express or implied, to me about the property, its condition, or its value.

(4) Electronic Records and Signatures

- The Lender and Other Loan Participants may keep any paper record and/or electronic record of this application, whether or not the Loan is approved.
- If this application is created as (or converted into) an "electronic application", I consent to the use of "electronic records" and "electronic signatures" as the terms are defined in and governed by applicable federal and/or state electronic transactions laws.
- I intend to sign and have signed this application either using my: (a) electronic signature; or (b) a written signature and agree that if a paper version of this application is converted into an electronic application, the application will be an electronic record, and the representation of my written signature on this application will be my binding electronic signature.
- I agree that the application, if delivered or transmitted to the Lender or Other Loan Participants as an electronic record with my electronic signature, will be as effective and enforceable as a paper application signed by me in writing.

(5) Delinquency

- The Lender and Other Loan Participants may report information about my account to credit bureaus. Late payments, missed payments, or other defaults on my account may be reflected in my credit report and will likely affect my credit score.
- If I have trouble making my payments I understand that I may contact a HUD-approved housing counseling organization for advice about actions I can take to meet my mortgage obligations.

(6) Use and Sharing of Information

I understand and acknowledge that the Lender and Other Loan Participants can obtain, use, and share the loan application, a consumer credit report, and related documentation for purposes permitted by applicable laws.

Borrower Signature _____ Date (mm/dd/yyyy) ____/____/____

Borrower Signature _____ Date (mm/dd/yyyy) ____/____/____

Section 7: Demographic Information. This section asks about your ethnicity, sex, and race.

Demographic Information of Borrower

The purpose of collecting this information is to help ensure that all applicants are treated fairly and that the housing needs of communities and neighborhoods are being fulfilled. For residential mortgage lending, Federal law requires that we ask applicants for their demographic information (ethnicity, sex, and race) in order to monitor our compliance with equal credit opportunity, fair housing, and home mortgage disclosure laws. You are not required to provide this information, but are encouraged to do so. You may select one or more designations for "Ethnicity" and one or more designations for "Race." **The law provides that we may not discriminate** on the basis of this information, or on whether you choose to provide it. However, if you choose not to provide the information and you have made this application in person, Federal regulations require us to note your ethnicity, sex, and race on the basis of visual observation or surname. The law also provides that we may not discriminate on the basis of age or marital status information you provide in this application. If you do not wish to provide some or all of this information, please check below.

Ethnicity: Check one or more

- Hispanic or Latino
 - Mexican Puerto Rican Cuban
 - Other Hispanic or Latino – *Print origin:* _____

For example: Argentinean, Colombian, Dominican, Nicaraguan, Salvadoran, Spaniard, and so on.

- Not Hispanic or Latino
- I do not wish to provide this information

Sex

- Female
- Male
- I do not wish to provide this information

Race: Check one or more

- American Indian or Alaska Native – *Print name of enrolled or principal tribe:* _____
- Asian
 - Asian Indian Chinese Filipino
 - Japanese Korean Vietnamese
 - Other Asian – *Print race:* _____
- Black or African American
 - For example: Hmong, Laotian, Thai, Pakistani, Cambodian, and so on.*
- Native Hawaiian or Other Pacific Islander
 - Native Hawaiian Guamanian or Chamorro Samoan
 - Other Pacific Islander – *Print race:* _____

For example: Fijian, Tongan, and so on.

- White
- I do not wish to provide this information

To Be Completed by Financial Institution (for application taken in person):

- Was the ethnicity of the Borrower collected on the basis of visual observation or surname? NO YES
- Was the sex of the Borrower collected on the basis of visual observation or surname? NO YES
- Was the race of the Borrower collected on the basis of visual observation or surname? NO YES

The Demographic Information was provided through:

- Face-to-Face Interview (includes Electronic Media w/Video Component)
- Telephone Interview
- Fax or Mail
- Email or Internet

Section 8: Loan Originator Information.

Loan Originator Information

Loan Originator Organization Name _____

Address _____

Loan Originator Organization NMLSR ID# _____ State License ID# _____

Loan Originator Name _____

Loan Originator NMLSR ID# _____ State License ID# _____

Email _____ Phone (_____) _____ - _____

Signature _____ Date (mm/dd/yyyy) ____/____/____

Borrower Name: _____

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To be completed by the Lender:
 Lender Loan No./Universal Loan Identifier _____ Agency Case No. _____

Uniform Residential Loan Application — Additional Borrower

Verify and complete the information on this application as directed by your Lender.

Section 1: Borrower Information. This section asks about your personal information and your income from employment and other sources, such as retirement, that you want considered to qualify for this loan.

1a. Personal Information

<p>Name (First, Middle, Last, Suffix) _____</p> <p>Alternate Names – List any names by which you are known or any names under which credit was previously received. (First, Middle, Last, Suffix) _____</p>	<p>Social Security Number _____ (or Individual Taxpayer Identification Number)</p> <p>Date of Birth (mm/dd/yyyy) _____</p> <p>Citizenship <input type="radio"/> U.S. Citizen <input type="radio"/> Permanent Resident Alien <input type="radio"/> Non-Permanent Resident Alien</p>
---	---

<p>Type of Credit <input type="radio"/> I am applying for individual credit. <input type="radio"/> I am applying for joint credit. Total Number of Borrowers: _____ Each Borrower intends to apply for joint credit. Your initials: _____</p>	<p>List Name(s) of Other Borrower(s) Applying for this Loan (First, Middle, Last, Suffix) _____</p>
--	---

<p>Marital Status <input type="radio"/> Married <input type="radio"/> Separated <input type="radio"/> Unmarried (Single, Divorced, Widowed, Civil Union, Domestic Partnership, Registered Reciprocal Beneficiary Relationship)</p>	<p>Dependents (not listed by another Borrower) Number _____ Ages _____</p>	<p>Contact Information Home Phone (____) _____ - _____ Cell Phone (____) _____ - _____ Work Phone (____) _____ - _____ Ext. _____ Email _____</p>
---	---	--

Current Address
 Street _____ Unit # _____
 City _____ State _____ ZIP _____ Country _____
 How Long at Current Address? ____ Years ____ Months **Housing:** No primary housing expense Own Rent (\$ _____ /month)

If at Current Address for LESS than 2 years, list Former Address Does not apply
 Street _____ Unit # _____
 City _____ State _____ ZIP _____ Country _____
 How Long at Former Address? ____ Years ____ Months **Housing:** No primary housing expense Own Rent (\$ _____ /month)

Mailing Address – if different from Current Address Does not apply
 Street _____ Unit # _____
 City _____ State _____ ZIP _____ Country _____

Military Service – Did you (or your deceased spouse) ever serve, or are you currently serving, in the United States Armed Forces? NO YES
 If YES, check all that apply:
 Currently serving on active duty with projected expiration date of service/tour ____/____/____ (mm/yyyy)
 Currently retired, discharged, or separated from service
 Only period of service was as a non-activated member of the Reserve or National Guard
 Surviving spouse

Language Preference – Your loan transaction is likely to be conducted in English. This question requests information to see if communications are available to assist you in your preferred language. Please be aware that communications may NOT be available in your preferred language.

Optional – Mark the language you would prefer, if available:
 English Chinese Korean Spanish Tagalog Vietnamese Other: _____ I do not wish to respond

Your answer will NOT negatively affect your mortgage application. Your answer does not mean the Lender or Other Loan Participants agree to communicate or provide documents in your preferred language. However, it may let them assist you or direct you to persons who can assist you.

Language assistance and resources may be available through housing counseling agencies approved by the U.S. Department of Housing and Urban Development. To find a housing counseling agency, contact one of the following Federal government agencies:

- U.S. Department of Housing and Urban Development (HUD) at (800) 569-4287 or www.hud.gov/counseling.
- Consumer Financial Protection Bureau (CFPB) at (855) 411-2372 or www.consumerfinance.gov/find-a-housing-counselor.

1b. Current Employment/Self-Employment and Income Does not apply

Employer or Business Name _____ Phone (____) ____ - _____		Gross Monthly Income	
Street _____		Base	\$ _____ /month
City _____ State _____ ZIP _____		Overtime	\$ _____ /month
Position or Title _____		Bonus	\$ _____ /month
Start Date ____/____/____ (mm/yyyy)	<input type="checkbox"/> Check if this statement applies: <input type="checkbox"/> I am employed by a family member, property seller, real estate agent, or other party to the transaction.	Commission	\$ _____ /month
How long in this line of work? ____ Years ____ Months		Military Entitlements	\$ _____ /month
<input type="checkbox"/> Check if you are the Business Owner or Self-Employed <input type="radio"/> I have an ownership share of less than 25%. <input type="radio"/> I have an ownership share of 25% or more.		Other	\$ _____ /month
Monthly Income (or Loss) \$ _____		TOTAL	\$ _____ /month

1c. IF APPLICABLE, Complete Information for Additional Employment/Self-Employment and Income Does not apply

Employer or Business Name _____ Phone (____) ____ - _____		Gross Monthly Income	
Street _____		Base	\$ _____ /month
City _____ State _____ ZIP _____		Overtime	\$ _____ /month
Position or Title _____		Bonus	\$ _____ /month
Start Date ____/____/____ (mm/yyyy)	<input type="checkbox"/> Check if this statement applies: <input type="checkbox"/> I am employed by a family member, property seller, real estate agent, or other party to the transaction.	Commission	\$ _____ /month
How long in this line of work? ____ Years ____ Months		Military Entitlements	\$ _____ /month
<input type="checkbox"/> Check if you are the Business Owner or Self-Employed <input type="radio"/> I have an ownership share of less than 25%. <input type="radio"/> I have an ownership share of 25% or more.		Other	\$ _____ /month
Monthly Income (or Loss) \$ _____		TOTAL	\$ _____ /month

1d. IF APPLICABLE, Complete Information for Previous Employment/Self-Employment and Income Does not apply

Provide at least 2 years of current and previous employment and income.

Employer or Business Name _____		<input type="checkbox"/> Check if you were the Business Owner or Self-Employed	Previous Gross Monthly Income
Street _____			
City _____ State _____ ZIP _____			
Position or Title _____			
Start Date ____/____/____ (mm/yyyy)	End Date ____/____/____ (mm/yyyy)		

1e. Income from Other Sources Does not apply

Include income from other sources below. Under Income Source, choose from the sources listed here:

• Alimony	• Child Support	• Interest and Dividends	• Notes Receivable	• Royalty Payments	• Unemployment Benefits
• Automobile Allowance	• Disability	• Mortgage Credit Certificate	• Public Assistance	• Separate Maintenance	• VA Compensation
• Boarder Income	• Foster Care	• Mortgage Differential Payments	• Retirement (e.g., Pension, IRA)	• Social Security	• Other
• Capital Gains	• Housing or Parsonage			• Trust	

NOTE: Reveal alimony, child support, separate maintenance, or other income ONLY if you want it considered in determining your qualification for this loan.

Income Source – use list above	Monthly Income
_____	\$ _____
_____	\$ _____
_____	\$ _____
Provide TOTAL Amount Here	\$ _____

Section 2: Financial Information — Assets and Liabilities.

My information for Section 2 is listed on the Uniform Residential Loan Application with _____ (insert name of Borrower)

Borrower Name: _____
 Uniform Residential Loan Application — Additional Borrower
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Section 3: Financial Information — Real Estate.

My information for Section 3 is listed on the Uniform Residential Loan Application with _____ (insert name of Borrower)

Section 4: Loan and Property Information.

My information for Section 4 is listed on the Uniform Residential Loan Application with _____ (insert name of Borrower)

Section 5: Declarations. This section asks you specific questions about the property, your funding, and your past financial history.

5a. About this Property and Your Money for this Loan

A. Will you occupy the property as your primary residence? If YES, have you had an ownership interest in another property in the last three years? If YES, complete (1) and (2) below: (1) What type of property did you own: primary residence (PR), FHA secondary residence (SR), second home (SH), or investment property (IP)? (2) How did you hold title to the property: by yourself (S), jointly with your spouse (SP), or jointly with another person (O)?	<input type="radio"/> NO <input type="radio"/> YES <input type="radio"/> NO <input type="radio"/> YES _____ _____
B. If this is a Purchase Transaction: Do you have a family relationship or business affiliation with the seller of the property?	<input type="radio"/> NO <input type="radio"/> YES
C. Are you borrowing any money for this real estate transaction (e.g., money for your closing costs or down payment) or obtaining any money from another party, such as the seller or realtor, that you have not disclosed on this loan application? If YES, what is the amount of this money?	<input type="radio"/> NO <input type="radio"/> YES \$ _____
D. 1. Have you or will you be applying for a mortgage loan on another property (not the property securing this loan) on or before closing this transaction that is not disclosed on this loan application? 2. Have you or will you be applying for any new credit (e.g., installment loan, credit card, etc.) on or before closing this loan that is not disclosed on this application?	<input type="radio"/> NO <input type="radio"/> YES <input type="radio"/> NO <input type="radio"/> YES
E. Will this property be subject to a lien that could take priority over the first mortgage lien, such as a clean energy lien paid through your property taxes (e.g., the Property Assessed Clean Energy Program)?	<input type="radio"/> NO <input type="radio"/> YES

5b. About Your Finances

F. Are you a co-signer or guarantor on any debt or loan that is not disclosed on this application?	<input type="radio"/> NO <input type="radio"/> YES
G. Are there any outstanding judgments against you?	<input type="radio"/> NO <input type="radio"/> YES
H. Are you currently delinquent or in default on a federal debt?	<input type="radio"/> NO <input type="radio"/> YES
I. Are you a party to a lawsuit in which you potentially have any personal financial liability?	<input type="radio"/> NO <input type="radio"/> YES
J. Have you conveyed title to any property in lieu of foreclosure in the past 7 years?	<input type="radio"/> NO <input type="radio"/> YES
K. Within the past 7 years, have you completed a pre-foreclosure sale or short sale, whereby the property was sold to a third party and the Lender agreed to accept less than the outstanding mortgage balance due?	<input type="radio"/> NO <input type="radio"/> YES
L. Have you had property foreclosed upon in the last 7 years?	<input type="radio"/> NO <input type="radio"/> YES
M. Have you declared bankruptcy within the past 7 years? If YES, identify the type(s) of bankruptcy: <input type="checkbox"/> Chapter 7 <input type="checkbox"/> Chapter 11 <input type="checkbox"/> Chapter 12 <input type="checkbox"/> Chapter 13	<input type="radio"/> NO <input type="radio"/> YES

Section 6: Acknowledgements and Agreements.

My signature for Section 6 is on the Uniform Residential Loan Application with _____ (insert name of Borrower)

Borrower Name: _____
Uniform Residential Loan Application — Additional Borrower
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Section 7: Demographic Information. This section asks about your ethnicity, sex, and race.

Demographic Information of Borrower

The purpose of collecting this information is to help ensure that all applicants are treated fairly and that the housing needs of communities and neighborhoods are being fulfilled. For residential mortgage lending, Federal law requires that we ask applicants for their demographic information (ethnicity, sex, and race) in order to monitor our compliance with equal credit opportunity, fair housing, and home mortgage disclosure laws. You are not required to provide this information, but are encouraged to do so. You may select one or more designations for "Ethnicity" and one or more designations for "Race." **The law provides that we may not discriminate** on the basis of this information, or on whether you choose to provide it. However, if you choose not to provide the information and you have made this application in person, Federal regulations require us to note your ethnicity, sex, and race on the basis of visual observation or surname. The law also provides that we may not discriminate on the basis of age or marital status information you provide in this application. If you do not wish to provide some or all of this information, please check below.

Ethnicity: Check one or more

- Hispanic or Latino
 - Mexican Puerto Rican Cuban
 - Other Hispanic or Latino – *Print origin:* _____

For example: Argentinean, Colombian, Dominican, Nicaraguan, Salvadoran, Spaniard, and so on.

- Not Hispanic or Latino
- I do not wish to provide this information

Sex

- Female
- Male
- I do not wish to provide this information

Race: Check one or more

- American Indian or Alaska Native – *Print name of enrolled or principal tribe:* _____
- Asian
 - Asian Indian Chinese Filipino
 - Japanese Korean Vietnamese
 - Other Asian – *Print race:* _____
- Black or African American
- Native Hawaiian or Other Pacific Islander
 - Native Hawaiian Guamanian or Chamorro Samoan
 - Other Pacific Islander – *Print race:* _____

For example: Fijian, Tongan, and so on.

- White
- I do not wish to provide this information

To Be Completed by Financial Institution (for application taken in person):

- Was the ethnicity of the Borrower collected on the basis of visual observation or surname? NO YES
- Was the sex of the Borrower collected on the basis of visual observation or surname? NO YES
- Was the race of the Borrower collected on the basis of visual observation or surname? NO YES

The Demographic Information was provided through:

- Face-to-Face Interview (includes Electronic Media w/Video Component)
- Telephone Interview
- Fax or Mail
- Email or Internet

Section 8: Loan Originator Information.

Loan Originator Information

Loan Originator Organization Name _____

Address _____

Loan Originator Organization NMLSR ID# _____ State License ID# _____

Loan Originator Name _____

Loan Originator NMLSR ID# _____ State License ID# _____

Email _____ Phone (_____) _____ - _____

Signature _____ Date (mm/dd/yyyy) ____/____/____

To be completed by the Lender:

Lender Loan No./Universal Loan Identifier _____

Agency Case No. _____

Uniform Residential Loan Application — Unmarried Addendum**For Borrower Selecting the Unmarried Status****Lenders Instructions for Using the Unmarried Addendum**

The Lender may use the Unmarried Addendum only when a Borrower selected "Unmarried" in Section 1 and the information collected is necessary to determine how State property laws directly or indirectly affecting creditworthiness apply, including ensuring clear title.

For example, the Lender may use the Unmarried Addendum when the Borrower resides in a State that recognizes civil unions, domestic partnerships, or registered reciprocal beneficiary relationships or when the property is located in such a State. "State" means any state, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

If you selected "Unmarried" in Section 1, is there a person who is not your legal spouse but who currently has real property rights similar to those of a legal spouse? NO YES

If YES, indicate the type of relationship and the State in which the relationship was formed. For example, indicate if you are in a civil union, domestic partnership, registered reciprocal beneficiary relationship, or other relationship recognized by the State in which you currently reside or where the property is located.

Civil Union Domestic Partnership Registered Reciprocal Beneficiary Relationship Other (explain) _____

State: _____

Borrower Name: _____

Uniform Residential Loan Application — Unmarried Addendum

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To be completed by the Lender:
 Lender Loan No./Universal Loan Identifier _____ Agency Case No. _____

Uniform Residential Loan Application — Lender Loan Information

This section is completed by your Lender.

L1. Property and Loan Information

<p>Community Property State</p> <p><input type="checkbox"/> At least one borrower lives in a community property state.</p> <p><input type="checkbox"/> The property is in a community property state.</p> <p>Transaction Detail</p> <p><input type="checkbox"/> Conversion of Contract for Deed or Land Contract</p> <p><input type="checkbox"/> Renovation</p> <p><input type="checkbox"/> Construction-Conversion/Construction-to-Permanent</p> <p style="padding-left: 20px;"><input type="radio"/> Single-Closing <input type="radio"/> Two-Closing</p> <p>Construction/Improvement Costs \$ _____</p> <p>Lot Acquired Date ____/____/____ (mm/yyyy)</p> <p>Original Cost of Lot \$ _____</p>	<p>Refinance Type</p> <p><input type="radio"/> No Cash Out</p> <p><input type="radio"/> Limited Cash Out</p> <p><input type="radio"/> Cash Out</p> <p>Refinance Program</p> <p><input type="radio"/> Full Documentation</p> <p><input type="radio"/> Interest Rate Reduction</p> <p><input type="radio"/> Streamlined without Appraisal</p> <p><input type="radio"/> Other _____</p> <p>Energy Improvement</p> <p><input type="checkbox"/> Mortgage loan will finance energy-related improvements.</p> <p><input type="checkbox"/> Property is currently subject to a lien that could take priority over the first mortgage lien, such as a clean energy lien paid through property taxes (e.g., the Property Assessed Clean Energy program).</p>
<p>Project Type <input type="checkbox"/> Condominium <input type="checkbox"/> Cooperative <input type="checkbox"/> Planned Unit Development (PUD) <input type="checkbox"/> Property is not located in a project</p>	

L2. Title Information

<p>Title to the Property Will be Held in What Name(s): _____</p> <p>Estate Will be Held in</p> <p><input type="radio"/> Fee Simple</p> <p><input type="radio"/> Leasehold: Expiration Date ____/____/____ (mm/yyyy)</p> <p>Manner in Which Title Will be Held</p> <p><input type="radio"/> Sole Ownership <input type="radio"/> Joint Tenancy with Right of Survivorship</p> <p><input type="radio"/> Life Estate <input type="radio"/> Tenancy by the Entirety</p> <p><input type="radio"/> Tenancy in Common <input type="radio"/> Other _____</p>	<p>For Refinance: Title to the Property is Currently Held in What Name(s): _____</p> <p>Trust Information</p> <p><input type="radio"/> Title Will be Held by an <i>Inter Vivos</i> (Living) Trust</p> <p><input type="radio"/> Title Will be Held by a Land Trust</p> <p>Indian Country Land Tenure</p> <p><input type="radio"/> Fee Simple (On a Reservation)</p> <p><input type="radio"/> Individual Trust Land (Allotted/Restricted)</p> <p><input type="radio"/> Tribal Trust Land (On a Reservation)</p> <p><input type="radio"/> Tribal Trust Land (Off Reservation)</p> <p><input type="radio"/> Alaska Native Corporation Land</p>
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L3. Mortgage Loan Information

<p>Mortgage Type Applied For</p> <p><input type="radio"/> Conventional <input type="radio"/> USDA-RD</p> <p><input type="radio"/> FHA <input type="radio"/> VA <input type="radio"/> Other: _____</p> <p>Amortization Type</p> <p><input type="radio"/> Fixed Rate <input type="radio"/> Other (explain): _____</p> <p><input type="radio"/> Adjustable Rate</p> <p>If Adjustable Rate:</p> <p>Initial Period Prior to First Adjustment _____ (months)</p> <p>Subsequent Adjustment Period _____ (months)</p> <p>Loan Features</p> <p><input type="checkbox"/> Balloon / Balloon Term _____ (months)</p> <p><input type="checkbox"/> Interest Only / Interest Only Term _____ (months)</p> <p><input type="checkbox"/> Negative Amortization</p> <p><input type="checkbox"/> Prepayment Penalty / Prepayment Penalty Term _____ (months)</p> <p><input type="checkbox"/> Temporary Interest Rate Buydown / Initial Buydown Rate _____ %</p> <p><input type="checkbox"/> Other (explain): _____</p>	<p>Terms of Loan</p> <p>Note Rate _____ %</p> <p>Loan Term _____ (months)</p> <p>Mortgage Lien Type</p> <p><input type="radio"/> First Lien</p> <p><input type="radio"/> Subordinate Lien</p> <p>Proposed Monthly Payment for Property</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td>First Mortgage (P & I)</td> <td style="text-align: right;">\$ _____</td> </tr> <tr> <td>Subordinate Lien(s) (P & I)</td> <td style="text-align: right;">\$ _____</td> </tr> <tr> <td>Homeowner's Insurance</td> <td style="text-align: right;">\$ _____</td> </tr> <tr> <td>Supplemental Property Insurance</td> <td style="text-align: right;">\$ _____</td> </tr> <tr> <td>Property Taxes</td> <td style="text-align: right;">\$ _____</td> </tr> <tr> <td>Mortgage Insurance</td> <td style="text-align: right;">\$ _____</td> </tr> <tr> <td>Association/Project Dues (Condo, Co-Op, PUD)</td> <td style="text-align: right;">\$ _____</td> </tr> <tr> <td>Other</td> <td style="text-align: right;">\$ _____</td> </tr> <tr> <td>TOTAL</td> <td style="text-align: right;">\$ _____</td> </tr> </table>	First Mortgage (P & I)	\$ _____	Subordinate Lien(s) (P & I)	\$ _____	Homeowner's Insurance	\$ _____	Supplemental Property Insurance	\$ _____	Property Taxes	\$ _____	Mortgage Insurance	\$ _____	Association/Project Dues (Condo, Co-Op, PUD)	\$ _____	Other	\$ _____	TOTAL	\$ _____
First Mortgage (P & I)	\$ _____																		
Subordinate Lien(s) (P & I)	\$ _____																		
Homeowner's Insurance	\$ _____																		
Supplemental Property Insurance	\$ _____																		
Property Taxes	\$ _____																		
Mortgage Insurance	\$ _____																		
Association/Project Dues (Condo, Co-Op, PUD)	\$ _____																		
Other	\$ _____																		
TOTAL	\$ _____																		

Borrower Name(s): _____
 Uniform Residential Loan Application — Lender Loan Information
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L4. Qualifying the Borrower – Minimum Required Funds or Cash Back

DUE FROM BORROWER(S)	
A. Sales Contract Price	\$
B. Improvements, Renovations, and Repairs	\$
C. Land (if acquired separately)	\$
D. For Refinance: Balance of Mortgage Loans on the Property to be paid off in the Transaction <i>(See Table 3a. Property You Own)</i>	\$
E. Credit Cards and Other Debts Paid Off <i>(See Table 2c. Liabilities — Credit Cards, Other Debts, and Leases that You Owe)</i>	\$
F. Borrower Closing Costs (including Prepaid and Initial Escrow Payments)	\$
G. Discount Points	\$
H. TOTAL DUE FROM BORROWER(s) (Total of A thru G)	\$
TOTAL MORTGAGE LOANS	
I. Loan Amount Loan Amount Excluding Financed Mortgage Insurance (or Mortgage Insurance Equivalent) \$ _____ Financed Mortgage Insurance (or Mortgage Insurance Equivalent) Amount \$ _____	\$
J. Other New Mortgage Loans on the Property the Borrower(s) is Buying or Refinancing <i>(See Table 4b. Other New Mortgage Loans on the Property You are Buying or Refinancing)</i>	\$
K. TOTAL MORTGAGE LOANS (Total of I and J)	\$
TOTAL CREDITS	
L. Seller Credits	\$
M. Other Credits	\$
N. TOTAL CREDITS (Total of L and M)	\$
CALCULATION	
TOTAL DUE FROM BORROWER(s) (Line H)	\$
LESS TOTAL MORTGAGE LOANS (Line K) AND TOTAL CREDITS (Line N)	-\$
Cash From/To the Borrower (Line H minus Line K and Line N) NOTE: This amount does not include reserves or other funds that may be required by the Lender to be verified.	\$

L5. Homeownership Education and Housing Counseling

Housing counseling and homeownership education programs are offered by independent third parties to help the Borrower understand the rights and responsibilities of homeownership. A list of HUD-approved housing counseling agencies can be found at: www.hud.gov or www.consumerfinance.gov.

Has the Borrower(s) completed homeownership education (group or web-based classes) within the last 12 months? NO YES

If YES: (1) What format was it in: (Check the most recent) Attended Workshop in Person Completed Web-Based Workshop

(2) Who provided it:

If a HUD-approved agency, provide Housing Counseling Agency ID # _____

If not a HUD-approved agency, or unsure of HUD approval, provide name of Housing Counseling Agency _____

(3) Date of Completion ____ / ____ mm/yyyy Borrower Name _____

Has the Borrower(s) completed housing counseling (customized counselor-to-client services) within the last 12 months? NO YES

If YES: (1) What format was it in: (Check the most recent) Face-to-Face Telephone Internet

(2) Who provided it:

If a HUD-approved agency, provide Housing Counseling Agency ID # _____

If not a HUD-approved agency, or unsure of HUD approval, provide name of Housing Counseling Agency _____

(3) Date of Completion ____ / ____ mm/yyyy Borrower Name _____

Borrower Name(s): _____

Uniform Residential Loan Application — Lender Loan Information

Freddie Mac Form 65 - Fannie Mae Form 1003

Effective 07/2019

To be completed by the Lender:

Lender Loan No./Universal Loan Identifier _____

Agency Case No. _____

Uniform Residential Loan Application — Continuation Sheet

Continuation Sheet

Use this continuation sheet if you need more space to complete the Uniform Residential Loan Application.

Borrower Name (First, Middle, Last, Suffix) _____

Additional Information _____

Additional Borrower Name (First, Middle, Last, Suffix) _____

Additional Information _____

I/We fully understand that it is a federal crime punishable by fine or imprisonment, or both, to knowingly make any false statements concerning any of the above facts as applicable under the provisions of federal law (18 U.S.C. §§ 1001 et seq.).

Borrower Signature _____

Date (mm/dd/yyyy) ____/____/____

Borrower Signature _____

Date (mm/dd/yyyy) ____/____/____

Demographic Information Addendum. This section asks about your ethnicity, sex, and race.

Demographic Information of Borrower

The purpose of collecting this information is to help ensure that all applicants are treated fairly and that the housing needs of communities and neighborhoods are being fulfilled. For residential mortgage lending, Federal law requires that we ask applicants for their demographic information (ethnicity, sex, and race) in order to monitor our compliance with equal credit opportunity, fair housing, and home mortgage disclosure laws. You are not required to provide this information, but are encouraged to do so. You may select one or more designations for "Ethnicity" and one or more designations for "Race." **The law provides that we may not discriminate** on the basis of this information, or on whether you choose to provide it. However, if you choose not to provide the information and you have made this application in person, Federal regulations require us to note your ethnicity, sex, and race on the basis of visual observation or surname. The law also provides that we may not discriminate on the basis of age or marital status information you provide in this application. If you do not wish to provide some or all of this information, please check below.

Ethnicity: Check one or more

- Hispanic or Latino
 - Mexican Puerto Rican Cuban
 - Other Hispanic or Latino – *Print origin:* _____

For example: Argentinean, Colombian, Dominican, Nicaraguan, Salvadoran, Spaniard, and so on.

- Not Hispanic or Latino
- I do not wish to provide this information

Sex

- Female
- Male
- I do not wish to provide this information

Race: Check one or more

- American Indian or Alaska Native – *Print name of enrolled or principal tribe:* _____
- Asian
 - Asian Indian Chinese Filipino
 - Japanese Korean Vietnamese
 - Other Asian – *Print race:* _____
- For example: Hmong, Laotian, Thai, Pakistani, Cambodian, and so on.*
- Black or African American
- Native Hawaiian or Other Pacific Islander
 - Native Hawaiian Guamanian or Chamorro Samoan
 - Other Pacific Islander – *Print race:* _____
- For example: Fijian, Tongan, and so on.*
- White
- I do not wish to provide this information

To Be Completed by Financial Institution (for application taken in person):

- Was the ethnicity of the Borrower collected on the basis of visual observation or surname? NO YES
- Was the sex of the Borrower collected on the basis of visual observation or surname? NO YES
- Was the race of the Borrower collected on the basis of visual observation or surname? NO YES

The Demographic Information was provided through:

- Face-to-Face Interview (includes Electronic Media w/Video Component)
- Telephone Interview
- Fax or Mail
- Email or Internet

Borrower Name: _____

Uniform Residential Loan Application
Freddie Mac Form 65 - Fannie Mae Form 1003
Revised 09/2017

Dated: November 20, 2017.

David Silberman,

Acting Deputy Director of the Bureau and Associate Director, Division of Research, Markets, and Regulations, Bureau of Consumer Financial Protection.

[FR Doc. 2017-25434 Filed 11-22-17; 8:45 am]

BILLING CODE 4810-AM-C

DEPARTMENT OF DEFENSE

Office of the Secretary

Reserve Forces Policy Board; Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Personnel and Readiness, 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 Reserve Forces Policy Board (RFPB) will take place.

DATES: The RFPB will hold a meeting on Wednesday, December 13, 2017 from 8:10 a.m. to 3:50 p.m. The portion of the meeting from 8:10 a.m. to 12:05 p.m. will be closed to the public. The portion of the meeting from 1:00 p.m. to 3:50 p.m. will be open to the public.

ADDRESSES: The RFPB meeting address is the Pentagon, Room 3E863, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Alexander Sabol, (703) 681-0577 (Voice), 703-681-0002 (Facsimile), *Alexander.J.Sabol.Civ@Mail.Mil* (Email). Mailing address is Reserve Forces Policy Board, 5113 Leesburg Pike, Suite 601, Falls Church, VA 22041. Web site: <http://rfpb.defense.gov/>. The most up-to-date changes to the meeting agenda can 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 purpose of the meeting is to obtain, review, and evaluate information related to strategies, policies, and practices designed to improve and enhance the capabilities, efficiency, and effectiveness of the Reserve Components.

Agenda: The RFPB will hold a meeting from 8:10 a.m. to 3:50 p.m. The portion of the meeting from 8:10 a.m. to

12:05 p.m. will be closed to the public and will consist of remarks to the RFPB from following invited speakers: The Deputy Secretary of Defense will address key national military strategy challenges facing our Nation and priorities for adapting the force and the use of the Reserve Components to accomplish these challenges. The Commander, U.S. Northern Command will discuss the readiness, availability, and use of the National Guard and Reserve within the Northern Command with their increased emphasis on the homeland security missions for the Reserve Component members. The Acting Secretary of the U.S. Army will discuss the Army's posture, status on the Report of the National Commission on the Future of the Army recommendations, and plans to adapt the Total Army to meet future challenges. The Institute for Defense Analysis (IDA) will brief the findings of the current IDA study on the Reserve Components performance during Operation Enduring Freedom. Major General Sheila Zuehlke, USAFR (Retired), Subcommittee on Enhancing DoD's Role in the Homeland Board Member and RADML David Dermanelian, USCG, J7, Director, Exercises and Training, USCYBERCOM will discuss the USCYBERCOM's Service's cyber training and certification program, and the use of the National Guard and Reserve to meet the cyber threats. The portion of the meeting from 1:00 p.m. to 3:50 p.m. will be open to the public and will consist of briefings from the following: The Chief of the Air Force Reserve will discuss the Air Force Reserve goals, readiness objectives, and challenges for the "Operational Reserve" as part of the Total Force. The Adjutant General of Texas National Guard and the Director of the Joint Staff, Joint Force Headquarters of Texas National Guard will discuss the recent Texas domestic operations involving the Texas National Guard during Hurricane Harvey. The National Chair, Employer Support of the Guard and Reserve will discuss the Employer Support of the Guard and Reserve's mission of facilitating and promoting a cooperative culture of employer support for National Guard and Reserve. The Chair of the RFPB's Subcommittee on Supporting & Sustaining Reserve Component Personnel will present to the RFPB the subcommittee's proposed recommendations to the Secretary of Defense concerning the OUSD P&R Duty Status Reform proposal and the co-sponsored National Guard Bureau's and OASD Manpower & Reserve Affairs

Reserve Integration's study on the Reserve Component Travel Pay.

Meeting Accessibility: Pursuant to section 10(a)(1) of the FACA and 41 CFR 102-3.140 through 102-3.165, and subject to the availability of space, the meeting is open to the public from 1:00 p.m. to 3:50 p.m. Seating is on a first-come, first-served basis. All members of the public who wish to attend the public meeting must contact Mr. Alex Sabol, the Designated Federal Officer, no later than 12:00 p.m. on Tuesday, December 12, 2017, as listed in the **FOR FURTHER INFORMATION CONTACT** section to make arrangements for a Pentagon escort, if necessary. Public attendees requiring escort should arrive at the Pentagon Metro Entrance at 12:30 p.m. to provide sufficient time to complete security screening to attend the beginning of the Open Meeting at 1:00 p.m. on December 13. To complete the security screening, please be prepared to present two forms of identification. One must be a picture identification card. In accordance with section 10(d) of the FACA, 5 U.S.C. 552b(c), and 41 CFR 102-3.155, the DoD has determined that the portion of this meeting scheduled to occur from 8:10 a.m. to 12:05 p.m. will be closed to the public. Specifically, the Under Secretary of Defense (Personnel and Readiness), in coordination with the Department of Defense FACA Attorney, has determined in writing that this portion of the meeting will be closed to the public because it is likely to disclose classified matters covered by 5 U.S.C. 552b(c)(1).

Written Statements: Pursuant to section 10(a)(3) of the FACA and 41 CFR 102-3.105(j) and 102-3.140, interested persons may submit written statements to the RFPB about its approved agenda or at any time on the RFPB's mission. Written statements should be submitted to the RFPB's Designated Federal Officer at the address, email, or facsimile number listed in the **FOR FURTHER INFORMATION CONTACT** section. If statements pertain to a specific topic being discussed at the planned meeting, then these statements must be submitted no later than five (5) business days prior to the meeting in question. Written statements received after this date may not be provided to or considered by the RFPB until its next meeting. The Designated Federal Officer will review all timely submitted written statements and provide copies to all the RFPB members before the meeting that is the subject of this notice. Please note that since the RFPB operates under the provisions of the FACA, all submitted comments and public presentations will be treated as public documents and will be made available for public inspection,

including, but not limited to, being posted on the RFPB's Web site.

Dated: November 20, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017-25431 Filed 11-22-17; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Department of the Army, Army Corps of Engineers

Notice of Intent To Prepare an Environmental Impact Statement for the Detroit Dam Downstream Passage Project

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The Portland District, U.S. Army Corps of Engineers (Corps) intends to prepare an Environmental Impact Statement (EIS). The purpose of this EIS is to analyze effects to the human environment associated with the Corps efforts to enhance juvenile passage of Endangered Species Act (ESA) listed Upper Willamette River (UWR) spring Chinook salmon and winter steelhead through Detroit Dam to reaches downstream of the dam; and to modify temperatures in the North Santiam and main stem Santiam Rivers, below Detroit Dam, with the objective of replicating pre-reservoir water temperatures. These actions are part of the Corps implementation of the National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (USFWS) 2008 Biological Opinions (BiOp) for the continued operations and maintenance of the Willamette Valley Project. The Corps will serve as the lead federal agency for purposes of the National Environmental Policy Act (NEPA).

DATES: Written comments for consideration in the development of the scope of the NEPA EIS are due to the addresses below no later than January 8, 2018. Comments may also be made at the public scoping meetings as noted below.

ADDRESSES: Mailed comments may be sent to: U.S. Army Corps of Engineers, Portland District, P.O. Box 2946, Attn: CENWP-PM-E, Portland, Oregon 97208-2946. Email comments to: detroit.fish.passage@usace.army.mil. All comments and materials received, including names and addresses, will become part of the administrative record and may be released to the public.

FOR FURTHER INFORMATION CONTACT: For questions regarding the Project, the EIS, or special accommodations for scoping process participation, please contact Kelly Janes, Environmental Resources Specialist; (503) 808-4771.

SUPPLEMENTARY INFORMATION:

Project Background. The Corps' Detroit and Big Cliff dams and reservoirs are located in Linn and Marion Counties in the Oregon Cascades, in the North Santiam River sub-basin of the Willamette River basin near the city of Detroit, Oregon. The Detroit and Big Cliff dams, both completed in 1953, form a complete barrier to upstream fish passage. This lack of access for UWR spring Chinook salmon and steelhead to the high-quality habitat upstream is a critical limiting factor for the recovery and contributes to a high or very high extinction risk. Additionally, the dam poses a significant barrier and risk for downstream migrating juvenile fish. Finally, construction and operation of Detroit Dam has altered the pre-dam seasonal thermal regimes in the North Santiam River. Detroit Dam operations have resulted in cooler downstream water temperatures in the spring and summer then were experienced before the dam was built. Detroit Dam operations also result in warmer downstream temperatures in the fall and winter compared to pre-dam conditions. The altered temperature regime negatively affects the productivity of UWR spring Chinook salmon and winter steelhead in the lower North Santiam River, and has been identified as one of the most critical limiting factors for species recovery.

Detroit and Big Cliff dams and reservoirs are included in the 13 multipurpose dams and reservoirs the Corps operates and maintains in the Willamette River Basin in Oregon, collectively referred to as the Willamette Project. The listing of several species under the ESA required the Corps to perform an assessment of the effects of operating the Willamette Project on listed species. Based on this assessment, the NMFS released a BiOp in 2008, which identified measures that it believed would avoid jeopardizing the existence of ESA listed fish in the Willamette basin, referred to as measures in the Reasonable and Prudent Alternative (RPA). Measure 4.12.3 of the RPA requires downstream fish passage at Detroit Dam. Measure 5.2 of the RPA requires the minimization of water quality effects associated with operations of Detroit and Big Cliff dams by making structural modifications or major operational changes. The BiOp

acknowledges that, if feasible, there might be cost-savings and reduced effects if addressing both RPA measures were achieved through one construction project.

Proposed Project. The Corps is developing a project to provide downstream juvenile fish passage for UWR Chinook and steelhead as well as to provide temperature control at Detroit Dam. The purposes of the proposed project is to enhance juvenile passage of UWR spring Chinook and winter steelhead on the North Santiam to reaches downstream of the dams; and to modify temperatures on the North Santiam and main stem Santiam Rivers, below Detroit Dam, with the objective of replicating pre-reservoir water temperatures for UWR spring Chinook and UWR winter steelhead habitat.

Alternatives. The project will be developed in a manner that is consistent with sound engineering practice and meets all applicable federal environmental laws. In addition to the No Action Alternative, in which case dam operations will continue in the absence of the Project, structural and operational alternatives considered will include, but are not limited to: Optimizing operations, upgrading current structures, and constructing new structures adjacent to the Detroit Dam in Detroit Reservoir. Additional alternatives could be developed during the scoping and evaluation process.

Scoping Process/Public Involvement. The Corps invites all affected federal, state, and local agencies, affected Native American Tribes, other interested parties, and the general public to participate in the NEPA process during development of the EIS. The purpose of the public scoping process is to provide information to the public, narrow the scope of analysis to significant environmental issues, serve as a mechanism to solicit agency and public input on alternatives and issues of concern, and ensure full and open participation in scoping of the Draft EIS. Two public scoping meetings are scheduled for December 2017. The specific dates, times, and locations of the meetings are provided below.

Upon completion of the scoping process, the Draft EIS will be circulated for public review and comment. The Corps expects to release the Draft EIS for public review and comment in 2019. The Corps will issue a Notice of Availability in the **Federal Register** announcing the release of the Draft EIS for public comment through the local news media. Documents and other important information related to the EIS will be available for review on the Corps' project Web site.

Public Scoping Meetings:

- Thursday, December 14, 2017, 4:00 p.m. to 7:00 p.m. at the South Salem High School Library located at 1910 Church Street SE., Salem, OR 97302.
- Tuesday, December 19, 2017, 4:00 p.m. to 7:00 p.m. at the Gates Fire Hall located at 140 East Sorbin Street, Gates, Oregon 97346.

Additional information related to the public scoping process will be provided through advertisements placed in regional newspapers of general circulation, Public Notice, and on the project Web site at <https://nwp.usace.army.mil/Willamette/Detroit/fish-passage/>.

Aaron L. Dorf,

Colonel, Corps of Engineers, District Commander.

[FR Doc. 2017-25398 Filed 11-22-17; 8:45 am]

BILLING CODE 3720-58-P

DEPARTMENT OF EDUCATION

[Docket No.: ED-2017-ICCD-0143]

Agency Information Collection Activities; Comment Request; U.S. Department of Education Green Ribbon Schools Nominee Presentation Form

AGENCY: Office of Communications and Outreach (OCO), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before January 23, 2018.

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-0143. 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 216-32, Washington, DC 20202-4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Andrea Falken, 202-503-8985.

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: U.S. Department of Education Green Ribbon Schools Nominee Presentation Form.

OMB Control Number: 1860-0509.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Private Sector; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 1,443.

Total Estimated Number of Annual Burden Hours: 6,021.

Abstract: U.S. Department of Education Green Ribbon Schools (ED-GRS) is a recognition award that honors schools, districts, and postsecondary institutions that are exemplary in three Pillars: (1) Reducing environmental impact and costs, including waste, water, energy use and alternative transportation; (2) improving the health and wellness of students and staff, including environmental health of premises, nutrition and fitness; and (3) providing effective sustainability education, including STEM, civic skills and green career pathways.

The award is a tool to encourage state education agencies, stakeholders and higher education officials to consider matters of facilities, health and environment comprehensively and in coordination with state health, environment and energy agency counterparts. In order to be selected for federal recognition, schools, districts and postsecondary institutions must be high achieving in all three of the above Pillars, not just one area. Schools, districts, colleges and universities apply to their state education authorities. State authorities can submit up to six nominees to ED, documenting achievement in all three Pillars. This information is used at the Department to select the awardees.

Dated: November 20, 2017.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017-25394 Filed 11-22-17; 8:45 am]

BILLING CODE 4000-01-P

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-9036-3]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564-7146 or <http://www2.epa.gov/nepa/>.

Weekly receipt of Environmental Impact Statements (EIS) Filed 11/13/2017 Through 11/17/2017 Pursuant to 40 CFR 1506.9

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: <https://cdxnodengn.epa.gov/cdx-nepa-public/action/eis/search>.

EIS No. 20170229, Final, USACE, AZ, ADOPTION—South Mountain Freeway (Loop 202), Contact: Jesse Rice (602) 230-6854.

EIS No. 20170230, Final, BPA, WA, Melvin R. Sampson Hatchery, Yakima Basin Coho Project, Review Period Ends: 12/26/2017, Contact: Dave Goodman (503) 230-4764.

EIS No. 20170231, Final, USFS, OR, Antelope Grazing Allotments AMP, Review Period Ends: 01/08/2018, Contact: Benjamin Goodin (541) 947-6251.

EIS No. 20170232, Draft, BR, CA, Pure Water San Diego Program, North City

Project, Comment Period Ends: 01/08/2018, Contact: Doug McPherson (951) 695-5310.

ELS No. 20170233, Draft Supplement, AFRH, DC, Armed Forces Retirement Home Master Plan Update, Comment Period Ends: 01/15/2018, Contact: Justin Seffens (202) 541-7548.

Amended Notices

ELS No. 20170154, Draft, USACE, IL, The Great Lakes and Mississippi River Interbasin Study—Brandon Road, Contact: Andrew Leichty (309) 794-5399.

Revision to the FR Notice Published 09/15/2017; Extending Comment Period from 11/16/2017 to 12/08/2017.

Dated: November 20, 2017.

Kelly Knight,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2017-25430 Filed 11-22-17; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-XXXX, OMB 3060-0430]

Information Collections Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The Commission may not conduct or sponsor a collection of information

unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before December 26, 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, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A.Fraser@omb.eop.gov*; and to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov*.

Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418-2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page <<http://www.reginfo.gov/public/do/PRAMain>>, (2) look for the section of the Web page called "Currently Under Review," (3) click on the downward-pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of

information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control No.: 3060-XXXX.

Title: Sections 15.37(k), 74.851(k), and 74.851(l), Consumer Disclosure and Labeling.

Form No.: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit, and Not-for-profit institutions.

Number of Respondents and Responses: 5,100 respondents; 127,500 responses.

Estimated Time per Response: 0.25 hours.

Frequency of Response: Third party disclosure requirement (disclosure and labeling requirement).

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in 47 U.S.C. 151, 154(i), 154(j), 301, 302a, 303(f), 303(g), and 303(r).

Total Annual Burden: 31,875 hours.

Total Annual Cost: \$1,625,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: No information is requested that would require assurance of confidentiality.

Needs and Uses: The Commission will submit this information collection to the Office of Management and Budget (OMB) as a new collection after this 60-day comment period to obtain the full three-year clearance from them.

On August 11, 2015, the Commission released the *Wireless Microphones Report and Order* in Promoting Spectrum Access for Wireless Microphone Operations, Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions GN Docket No. 14-166 and GN Docket No. 12-268. In this Report and Order, the Commission established certain consumer disclosure and labeling requirements in Sections 15.37(k), 74.851(k), and 74.851(l) relating to wireless microphones and wireless video assist devices; these requirements apply to persons who manufacture, sell, lease, or offer for sale or lease, wireless microphone or video assist devices—either (a) wireless microphones or other low power auxiliary stations ("wireless microphones") or video assist devices, authorized pursuant to Part 74, Subpart H of the Commission's rules, or (b) unlicensed wireless microphones authorized pursuant to § 15.236—to the extent that these devices have been

designed to operate on frequencies that are licensed to 600 MHz service band licensees that obtain licenses in the broadcast television incentive auction. The Commission directed that the Consumer and Governmental Affairs Bureau, following the close of the incentive auction, provide specific language to be used in consumer disclosure. The incentive auction closed on April 13, 2017.

On July 24, 2017, the Consumer and Governmental Affairs Bureau, Wireless Telecommunications Bureau, and the Office of Engineering and Technology of the Federal Communications Commission released an Order, Promoting Spectrum Access for Wireless Microphone Operations, Amendment of Part 15 of the Commission's Rules for Unlicensed Operations in the Television Bands, Repurposed 600 MHz Band, 600 MHz Guard Bands and Duplex Gap, and Channel 37, and, Amendment of Part 74 of the Commission's Rules for Low Power Auxiliary Stations in the Repurposed 600 MHz Band and 600 MHz Duplex Gap, Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, Order, GN Docket No. 14–166, ET Docket No. 14–165, and GN Docket No. 12–268. In this Order, the Consumer and Governmental Affairs Bureau, Wireless Telecommunications Bureau, and the Office of Engineering and Technology provided the specific language that must be used in the consumer disclosure required by the Commission in its 2015 *Wireless Microphones Report and Order*, as set forth in Sections 15.37(k) and 74.851(l) of the Commission's rules. As the Order explains, the consumer disclosure requirement is applicable to persons who manufacture, sell, lease, or offer for sale or lease, wireless microphone or video assist devices to the extent that *these devices are capable of operating on the specific frequencies associated with the 600 MHz service band (617–652 MHz/663–698 MHz)*. This disclosure also informs consumers that, consistent with the Commission's decision in the 2015 *Wireless Microphones Report and Order*, wireless microphone users must cease any wireless microphone operations in the 600 MHz service band no later than July 13, 2020, and that in many instances they may be required to cease use of these devices earlier if their use has the potential to cause harmful interference to 600 MHz service licensees' wireless operations in the band.

OMB Control Number: 3060–0430.

Title: Section 1.1206, Permit-but-Disclose Proceedings.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; Federal Government; and State, local, or tribal governments.

Number of Respondent and Responses: 11,500 respondents; 34,500 responses.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain benefits. Statutory authority for this collection of information is contained in sections 4(i) and (j), 303(r), and 409 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and (j), 303(r), and 409.

Estimated Time per Response: 45 minutes (0.75 hours).

Total Annual Burden: 25,875 hours.

Total Annual Cost: No cost.

Nature and Extent of Confidentiality: Consistent with the Commission's rules on confidential treatment of submissions, under 47 CFR 0.459, a presenter may request confidential treatment of *ex parte* presentations. In addition, the Commission will permit parties to remove metadata containing confidential or privileged information, and the Commission will also not require parties to file electronically *ex parte* notices that contain confidential information. The Commission will, however, require a redacted version to be filed electronically at the same time the paper filing is submitted, and that the redacted version must be machine-readable whenever technically possible.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The Commission's rules, under 47 CFR 1.1206, require that a public record be made of *ex parte* presentations (*i.e.*, written presentations not served on all parties to the proceeding or oral presentations as to which all parties have not been given notice and an opportunity to be present) to decision-making personnel in "permit-but-disclose" proceedings, such as notice-and-comment rulemakings and declaratory ruling proceedings.

On February 2, 2011, the FCC released a *Report and Order and Further Notice of Proposed Rulemaking*, GC Docket Number 10–43, FCC 11–11, which amended and reformed the Commission's rules on *ex parte* presentations (47 CFR 1.1206(b)(2)) made in the course of Commission rulemakings and other permit-but-disclose proceedings. The modifications to the existing rules adopted in this Report and Order require that parties file more descriptive summaries of their

ex parte contacts, by ensuring that other parties and the public have an adequate opportunity to review and respond to information submitted *ex parte*, and by improving the FCC's oversight and enforcement of the *ex parte* rules. The modified *ex parte* rules which contain information collection requirements which OMB approved on December 6, 2011, are as follows: (1) *Ex parte* notices will be required for all oral *ex parte* presentations in permit-but-disclose proceedings, not just for those presentations that involve new information or arguments not already in the record; (2) If an oral *ex parte* presentation is limited to material already in the written record, the notice must contain either a succinct summary of the matters discussed or a citation to the page or paragraph number in the party's written submission(s) where the matters discussed can be found; (3) Notices for all *ex parte* presentations must include the name of the person(s) who made the *ex parte* presentation as well as a list of all persons attending or otherwise participating in the meeting at which the presentation was made; (4) Notices of *ex parte* presentations made outside the Sunshine period must be filed within two business days of the presentation; (5) The Sunshine period will begin on the day (including business days, weekends, and holidays) after issuance of the Sunshine notice, rather than when the Sunshine Agenda is issued (as the current rules provide); (6) If an *ex parte* presentation is made on the day the Sunshine notice is released, an *ex parte* notice must be submitted by the next business day, and any reply would be due by the following business day. If a permissible *ex parte* presentation is made during the Sunshine period (under an exception to the Sunshine period prohibition), the *ex parte* notice is due by the end of the same day on which the presentation was made, and any reply would need to be filed by the next business day. Any reply must be in writing and limited to the issues raised in the *ex parte* notice to which the reply is directed; (7) Commissioners and agency staff may continue to request *ex parte* presentations during the Sunshine period, but these presentations should be limited to the specific information required by the Commission; (8) *Ex parte* notices must be submitted electronically in machine-readable format. PDF images created by scanning a paper document may not be submitted, except in cases in which a word-processing version of the document is not available. Confidential information may continue to be

submitted by paper filing, but a redacted version must be filed electronically at the same time the paper filing is submitted. An exception to the electronic filing requirement will be made in cases in which the filing party claims hardship. The basis for the hardship claim must be substantiated in the *ex parte* filing; (9) To facilitate stricter enforcement of the *ex parte* rules, the Enforcement Bureau is authorized to levy forfeitures for *ex parte* rule violations; (10) Copies of electronically filed *ex parte* notices must also be sent electronically to all staff and Commissioners present at the *ex parte* meeting so as to enable them to review the notices for accuracy and completeness. Filers may be asked to submit corrections or further information as necessary for compliance with the rules; and (11) Parties making permissible *ex parte* presentations in restricted proceedings must conform and clarify rule changes when filing an *ex parte* notice with the Commission.

The information is used by parties to permit-but-disclose proceedings, including interested members of the public, to respond to the arguments made and data offered in the presentations. The responses may then be used by the Commission in its decision-making.

The availability of the *ex parte* materials ensures that the Commission's decisional processes are fair, impartial, and comport with the concept of due process in that all interested parties can know of and respond to the arguments made to the decision-making officials.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017-25414 Filed 11-22-17; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-1208]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other

Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before January 23, 2018. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email PRA@fcc.gov and to Cathy.Williams@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418-2918.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the PRA of 1995 (44 U.S.C. 3501-3520), the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to

further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060-1208.

Title: Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households, business or other for-profit entities, not-for-profit institutions and State, local or Tribal governments.

Number of Respondents: 1,350 respondents; 3,597 responses.

Estimated Time per Response: .5 hours to 1 hour.

Frequency of Response: Third-party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in Sections 1, 2, 4(i), 7, 201, 301, 303, and 309 of the Communications Act of 1934, as amended, and Sections 6003, 6213, and 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112-96, 126 Stat. 156, 47 U.S.C. 151, 152, 154(i), 157, 201, 301, 303, 309, 1403, 1433, and 1455(a).

Total Annual Burden: 3,535 hours.

Total Annual Cost: None.

Privacy Impact Assessment: This information collection may affect individuals or households. However, the information collection consists of third-party disclosures in which the Commission has no direct involvement. Personally identifiable information (PII) is not being collected by, made available to, or made accessible by the Commission. There are no additional impacts under the Privacy Act.

Nature and Extent of Confidentiality: No known confidentiality between third parties.

Needs and Uses: This information collection will be submitted for extension to the Office of Management and Budget (OMB) after the 60-day comment period to obtain the full three-year clearance. The Commission has not changed the collection, which includes disclosure requirements pertaining to Subpart CC of Part 1 of the Commission's rules. This Subpart was adopted to implement and enforce Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012. Section 6409(a) provides, in part, that "a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station." 47 U.S.C. 1455(a)(1). In

Subpart CC, the Commission adopted definitions of ambiguous terms, procedural requirements, and remedies to provide guidance to all stakeholders on the proper interpretation of the provision and to enforce its requirements, reducing delays in the review process for wireless infrastructure modifications and facilitating the rapid deployment of wireless infrastructure.

The following are the information collection requirements in connection with Subpart CC of Part 1 of the Commission's rules:

- 47 CFR 1.40001(c)(3)(i)—To toll the 60-day review timeframe on grounds that an application is incomplete, the reviewing State or local government must provide written notice to the applicant within 30 days of receipt of the application, clearly and specifically delineating all missing documents or information. Such delineated information is limited to documents or information meeting the standard under paragraph (c)(1) of Section 1.140001.

- 47 CFR 1.140001(c)(3)(iii)—Following a supplemental submission from the applicant, the State or local government will have 10 days to notify the applicant in writing if the supplemental submission did not provide the information identified in the State or local government's original notice delineating missing information. The timeframe for review is tolled in the case of second or subsequent notices of incompleteness pursuant to the procedures identified in paragraph (c)(3). Second or subsequent notices of incompleteness may not specify missing documents or information that were not delineated in the original notice of incompleteness.

- 47 CFR 1.140001(c)(4)—If a request is deemed granted because of a failure to timely approve or deny the request, the deemed grant does not become effective until the applicant notifies the applicable reviewing authority in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.

These collections are necessary to effectuate the rule changes that implement and enforce the requirements of Section 6409(a).

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017-25410 Filed 11-22-17; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-0084]

Information Collection Approved by the Office of Management and Budget (OMB)

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval, via a non-substantive change request, of changes to information collection requirements associated with FCC Form 323-E (Ownership Report for Noncommercial Broadcast Stations), which the Commission adopted in the *Order on Reconsideration*, FCC 17-42, published at 82 FR 21718, May 10, 2017. An agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number, and no person is required to respond to a collection of information unless it displays a currently valid control number. Comments concerning the accuracy of the burden estimates and any suggestions for reducing the burden should be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

FOR FURTHER INFORMATION CONTACT: Cathy Williams, *Cathy.Williams@fcc.gov*, (202) 418-2918.

SUPPLEMENTARY INFORMATION:

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060-0084.

OMB Approval Date: May 31, 2017.

OMB Expiration Date: November 30, 2019.

Title: Ownership Report for Noncommercial Educational Broadcast Stations, FCC Form 323-E; Section 73.3615, Ownership Reports.

Form Number: FCC Form 323-E.

Respondents: Not-for-profit institutions.

Number of Respondents and Responses: 2,636 respondents; 2,636 responses.

Estimated Time per Response: 1 to 1.5 hours.

Frequency of Response: On occasion reporting requirement; biennial reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for these collections are contained in 47 U.S.C. 151, 152(a), 154(i), 257, 303(r), 307, 308, 309, and 310.

Total Annual Burden: 3,867 hours.

Total Annual Cost: \$2,319,900.

Nature and Extent of Confidentiality: FCC Form 323-E collects two types of information from respondents: PII in the form of names, addresses, job titles and demographic information; and FCC Registration Numbers (FRNs).

The FCC/MB-1 SORN, which was approved on November 28, 2016 (81 FR 72047), covers the collection, purpose(s), storage, safeguards, and disposal of the PII that individual respondents may submit on Form 323-E, as required under the *Privacy Act of 1974*, as amended (5 U.S.C. 552a). The Commission is drafting a privacy statement to inform applicants (respondents) of the Commission's need to obtain the information and the protections that the Commission has in place to protect the PII.

FRNs are assigned to applicants who complete FCC Form 160 (OMB Control No. 3060-0917). Form 160 currently requires applicants for FRNs to provide their Taxpayer Information Number (TIN) and/or Social Security Number (SSN). The FCC's electronic Commission Registration System (CORES) then provides each registrant with a CORES FRN, which identifies the registrant in his/her subsequent dealings with the FCC. This is done to protect the individual's privacy. Form 160 requires applicants for Restricted Use FRNs to provide an alternative set of identifying information that does not include the individual's full SSN: His/her full name, residential address, date of birth, and only the last four digits of his/her SSN. Restricted Use FRNs may be used in lieu of CORES FRNs only on broadcast ownership reports and only for individuals (not entities) reported as attributable interest holders. The Commission maintains a SORN, FCC/OMB-25, Financial Operations Information System (FOIS), to cover the collection, purpose(s), storage, safeguards, and disposal of the PII that individual respondents may submit on Form 160. Form 160 includes a privacy statement to inform applicants (respondents) of the Commission's need to obtain the information and the protections that the FCC has in place to protect the PII.

Privacy Act: The Commission is drafting a Privacy Impact Assessment (PIA) for the personally identifiable information (PII) that is covered by the system of records notice (SORN), FCC/MB-1, Ownership Reports for Commercial and Noncommercial Broadcast Stations. Upon completion of the PIA, it will be posted on the FCC's Web site, as required by the Office of Management and Budget (OMB)

Memorandum, M–03–22 (September 22, 2003).

Needs and Uses: On January 20, 2016, the Commission released a *Report and Order, Second Report and Order, and Order on Reconsideration* in MB Docket Nos. 07–294, 10–103, and MD Docket No. 10–234 (*323 and 323–E Order*). The *323 and 323–E Order* refines the collection of data reported on FCC Form 323, Ownership Report for Commercial Broadcast Stations, and FCC Form 323–E, Ownership Report for Noncommercial Broadcast Stations. Specifically, the *323 and 323–E Order* implements a Restricted Use FRN (RUFNRN) within the Commission’s Registration System (CORES) that individuals may use solely for the purpose of broadcast ownership report filings; eliminates the availability of the Special Use FRN (SUFNRN) for broadcast station ownership reports, except in very limited circumstances; prescribes revisions to Form 323–E that conform to the reporting requirements for noncommercial educational (NCE) broadcast stations more closely to those for commercial stations; and makes a number of significant changes to the Commission’s reporting requirements that reduce the filing burdens on broadcasters, streamline the process, and improve data quality.

On April 21, 2017, the Commission released an *Order on Reconsideration* in MB Docket No. 07–294 and MD Docket No. 10–23 (*323–E Reconsideration Order*). The *323–E Reconsideration Order* expands the option to use

SUFNRNs on Form 323–E. This action addresses several petitions for reconsideration of the *323 and 323–E Order* and properly balances the Commission’s need to improve the integrity and usability of its broadcast ownership data with the concerns raised in the petitions for reconsideration.

Licensees of noncommercial educational AM, FM, and television broadcast stations must file FCC Form 323–E every two years. Pursuant to the new filing procedures adopted in the *323 and 323–E Order*, Form 323–E shall be filed by December 1 in all odd-numbered years. Form 323 shall be filed by December 1 in all odd-numbered years. On September 1, 2017, the Commission’s Media Bureau released an Order in MB Docket No. 07–294, DA 17–813, postponing the opening of the 2017 biennial filing window for the submission of broadcast ownership reports on FCC Forms 323 and 323–E and extending the 2017 filing deadline. Biennial Ownership Reports shall provide information accurate as of October 1 of the year in which the Report is filed.

In addition, Licensees and Permittees of noncommercial educational AM, FM, and television stations must file Form 323–E following the consummation of a transfer of control or an assignment of a noncommercial educational AM, FM, or television station license or construction permit; a Permittee of a new noncommercial educational AM, FM, or television station must file Form 323–E within 30 days after the grant of

the construction permit; and a Permittee of a new noncommercial educational AM, FM, or television station must file Form 323–E to update the initial report or to certify the continuing accuracy and completeness of the previously filed report on the date that the Permittee applies for a license to cover the construction permit.

In the case of organizational structures that include holding companies or other forms of indirect ownership, a separate Form 323–E must be filed for each entity in the organizational structure that has an attributable interest in the Licensee or Permittee.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2017–25409 Filed 11–22–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Open Commission Meeting, Thursday, November 16, 2017

November 9, 2017.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, November 16, 2017 which is scheduled to commence at 10:30 a.m. in Room TW–C305, at 445 12th Street SW., Washington, DC.

Item No.	Bureau	Subject
1	CONSUMER & GOVERNMENTAL AFFAIRS.	<i>Title:</i> Advanced Methods to Target and Eliminate Unlawful Robocalls (CG Docket No. 17–59)). <i>Summary:</i> The Commission will consider a Report and Order that would expressly authorize voice service providers to block certain types of robocalls that falsely appear to be from telephone numbers that do not or cannot make outgoing calls. It also would prohibit voice service providers from blocking 911 calls under these rules, encourage voice service providers to provide a mechanism to allow subscribers whose legitimate calls are blocked in error to stop such blocking, and clarify that providers may exclude calls blocked under these rules from their call completion reports.
2	OFFICE OF ENGINEERING & TECHNOLOGY, INTERNATIONAL AND WIRELESS TELECOMMUNICATIONS.	<i>Title:</i> Use of Spectrum Bands Above 24 GHz For Mobile Radio Services (GN Docket No. 14–177); Establishing a More Flexible Framework to Facilitate Satellite Operations in the 27.5–28.35 GHz and 37.5–40 GHz Bands (IB Docket No. 15–256); Amendment of Parts 1, 22, 24, 27, 74, 80, 90, 95, and 101 To Establish Uniform License Renewal, Discontinuance of Operation, and Geographic Partitioning and Spectrum Disaggregation Rules and Policies for Certain Wireless Radio Services (WT Docket No. 10–112); Allocation and Designation of Spectrum for Fixed-Satellite Services in the 37.5–38.5 GHz, 40.5–41.5 GHz and 48.2–50.2 GHz Frequency Bands; Allocation of Spectrum to Upgrade Fixed and Mobile Allocations in the 40.5–42.5 GHz Frequency Band; Allocations of Spectrum in the 46.9–47.0 GHz Frequency Band for Wireless Services; and Allocation of Spectrum in the 37.0–38.0 and 40.0–40.5 GHz for Government Operations (IB Docket No 97–95). <i>Summary:</i> The Commission will consider a Second Report and Order, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, and Memorandum Opinion and Order that would make available 1,700 MHz of additional high-frequency spectrum for flexible terrestrial wireless use; provide 4 gigahertz for satellite use; and adopt, refine, or affirm a number of service rules to promote robust deployment in these bands, and a Second Further Notice of Proposed Rulemaking seeking comment on certain related earth station, buildout, and licensing issues.
3	WIRELINE TELECOMMUNICATIONS.	<i>Title:</i> Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment (WT Docket No. 17–79).

Item No.	Bureau	Subject
4	WIRELINE COMPETITION.	<p><i>Summary:</i> The Commission will consider a Report and Order to eliminate the requirement for historic preservation review where utility poles are replaced with substantially identical poles that can support antennas or other wireless communications equipment, and to consolidate the Commission's historic preservation review rules into a single rule.</p> <p><i>Title:</i> Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment (WC Docket No. 17-84).</p>
5	WIRELINE COMPETITION.	<p><i>Summary:</i> The Commission will consider a Report and Order, Declaratory Ruling, and Further Notice of Proposed Rulemaking and Order that will revise and seek comment on further changes to the Commission's pole attachment rules, network change disclosure processes, and section 214(a) discontinuance processes to remove barriers to infrastructure investment and promote broadband deployment, and will seek comment on taking targeted actions to facilitate rebuilding and repairing broadband infrastructure after natural disasters.</p> <p><i>Title:</i> Bridging the Digital Divide for Low-Income Consumers (WC Docket No. 17-287); Lifeline and Link Up Reform and Modernization (WC Docket No. 11-42); Telecommunications Carriers Eligible for Universal Service Support (WC Docket No. 09-197).</p>
6	MEDIA	<p><i>Summary:</i> The Commission will consider a Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry to adopt and propose measures to effectively and efficiently bridge the digital divide for Lifeline subscribers and reduce waste, fraud, and abuse in the Lifeline program.</p> <p><i>Title:</i> 2014 Quadrennial Regulatory Review—Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996 (MB Docket No. 14-50); 2010 Quadrennial Regulatory Review—Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996 (MB Docket No. 09-182); Promoting Diversification of Ownership In the Broadcasting Services (MB Docket No. 07-294); Rules and Policies Concerning Attribution of Joint Sales Agreements in Local Television Markets (MB Docket No. 04-256); Rules and Policies to Promote New Entry and Ownership Diversity in the Broadcasting Services (MB Docket No. 17-289).</p>
7	MEDIA	<p><i>Summary:</i> The Commission will consider an Order on Reconsideration and Notice of Proposed Rulemaking that updates the Commission's broadcast ownership and attribution rules to reflect the current media marketplace, denies various other requests for reconsideration, finds that the Commission will adopt an Incubator Program to promote ownership diversity, and seeks comment on how to structure and administer such a program.</p> <p><i>Title:</i> FCC Form 325 Data Collection (MB Docket No. 17-290); Modernization of Media Regulation Initiative (MB Docket No. 17-105).</p>
8	MEDIA AND OFFICE OF ENGINEERING & TECHNOLOGY.	<p><i>Summary:</i> The Commission will consider a Notice of Proposed Rulemaking that seeks comment on whether to eliminate Form 325, Annual Report of Cable Television Systems, or, in the alternative, on ways to modernize and streamline the form.</p> <p><i>Title:</i> Authorizing Permissive Use of the "Next Generation" Broadcast Television Standard (GN Docket No. 16-142).</p> <p><i>Summary:</i> The Commission will consider a Report and Order and Further Notice of Proposed Rulemaking authorizing television broadcasters to use the Next Generation television transmission standard (ATSC 3.0) on a voluntary, market-driven basis.</p>

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The meeting site is fully accessible to people using wheelchairs or other mobility aids. Sign language interpreters, open captioning, and assistive listening devices will be provided on site. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted, but may be impossible to fill. Send an email to: fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

Additional information concerning this meeting may be obtained from the Office of Media Relations, (202) 418-0500; TTY 1-888-835-5322. Audio/Video coverage of the meeting will be broadcast live with open captioning

over the Internet from the FCC Live Web page at www.fcc.gov/live.

For a fee this meeting can be viewed live over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. To purchase these services, call (703) 993-3100 or go to www.capitolconnection.gmu.edu.

Federal Communications Commission.
Marlene H. Dortch,
Secretary.
 [FR Doc. 2017-25412 Filed 11-22-17; 8:45 am]
BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-0633 and 3060-0727]

Information Collections Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of

information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before January 23, 2018. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email PRA@fcc.gov and to Cathy.Williams@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418-2918.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the PRA of 1995 (44 U.S.C. 3501-3520), the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060-0633.

Title: Sections 73.1230, 74.165, 74.432, 74.564, 74.664, 74.765, 74.832, 74.1265 Posting or Filing of Station Licenses.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, Not-for-profit institutions, Federal Government and State, local or Tribal Government.

Number of Respondents and Responses: 2,584 respondents and 2,584 responses.

Estimated Hours per Response: 0.083 hours.

Frequency of Response: On occasion reporting requirement, recordkeeping requirement and third party disclosure requirement.

Obligation to Responds: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Section 154(i) of the Communications Act of 1934, as amended.

Total Annual Burden: 214 hours.

Total Annual Cost: \$24,860.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The information collection requirements contained in this collection are as follows:

47 CFR 73.1230 requires that the station license and any other instrument of station authorization for an AM, FM or TV station be posted in a conspicuous place at the place the licensee considers to be the principal control point of the transmitter.

47 CFR 74.165 requires that the instrument of authorization for an experimental broadcast station be available at the transmitter site.

47 CFR 74.432(j) (remote pickup broadcast station) and 47 CFR 74.832(j) (low power auxiliary station) require that the license of a remote pickup broadcast/low power auxiliary station shall be retained in the licensee's files, posted at the transmitter, or posted at the control point of the station. These sections also require the licensee to forward the station license to the FCC in the case of permanent discontinuance of the station.

47 CFR 74.564 (aural broadcast auxiliary stations) requires that the station license and any other instrument of authorization be posted in the room where the transmitter is located, or if operated by remote control, at the operating position.

47 CFR 74.664 (television broadcast auxiliary stations) requires that the station license and any other instrument

of authorization be posted in the room where the transmitter is located.

47 CFR Sections 74.765 (low power TV, TV translator and TV booster) and 47 CFR 74.1265 (FM translator stations and FM booster stations) require that the station license and any other instrument of authorization be retained in the station's files. In addition, the call sign of the station, together with the name, address and telephone number of the licensee or the local representative of the licensee, and the name and address of the person and place where the station records are maintained, shall be displayed at the transmitter site on the structure supporting the transmitting antenna.

47 CFR 74.832(j) (low power auxiliary stations) requires that the license shall be retained in the licensee's files at the address shown on the authorization, posted at the transmitter, or posted at the control point of the station.

OMB Control Number: 3060-0727.

Title: Section 73.213, Grandfathered Short-Spaced Stations.

Form Number(s): Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 15 respondents; 15 responses.

Estimated Time per Response: 0.5 hours-0.83 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 Section 154(i), 55(c)(1), 302 and 303 of the Communications Act of 1934, as amended.

Total Annual Burden: 20 hours.

Total Annual Costs: \$3,750.

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: The information collection requirement contained in 47 CFR 73.213 requires licensees of grandfathered short-spaced FM stations seeking to modify or relocate their stations to provide a showing demonstrating that there is no increase in either the total predicted interference area or the associated population (caused or received) with respect to all grandfathered stations or increase the interference caused to any individual stations. Applicants must demonstrate that any new area predicted to lose service as a result of interference has adequate service remaining. In addition, licensees are required to serve a copy of any application for co-channel or first-

adjacent channel stations proposing predicted interference caused in any area where interference is not currently predicted to be caused upon the licensee(s) of the affected short-spaced station(s). Commission staff uses the data to determine if the public interest will be served and that existing levels of interference will not be increased to other licensed stations. Providing copies of application(s) to affected licensee(s) will enable potentially affected parties to examine the proposals and provide them an opportunity to file informal objections against such applications.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017-25407 Filed 11-22-17; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-1170]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to

any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before January 23, 2018. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418-2918.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the PRA of 1995 (44 U.S.C. 3501-3520), the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060-1170.

Title: Improving Spectrum Efficiency Through Flexible Channel Spacing and Bandwidth Utilization for Economic Area-based 800 MHz Specialized Mobile Radio Licensees—Notice Requirement Section 90.209.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 24 respondents; 24 responses.

Estimated Time per Response: 0.5-4 hours.

Frequency of Response: On occasion reporting requirement, third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection

is 47 U.S.C. 151, 152, 154, 301, 302(a), 303, 307, and 308 unless otherwise noted.

Total Annual Burden: 20 hours.

Total Annual Cost: \$46,000.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The information collection requirements contained in 47 CFR 90.209(b)(7) require EA-based 800 MHz SMR licensees authorized to exceed the standard channel spacing and authorized bandwidth under Section 90.209(b)(5) to provide at least 30 days written notice prior to initiating service in the 813.5-824/858.5-869 MHz band to every 800 MHz public safety licensee with a base station in the affected National Public Safety Planning Advisory Committee (NPSPAC) region, and every 800 MHz public safety licensee within 113 kilometers (70 miles) of the affected region.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017-25415 Filed 11-22-17; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-0819]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated

collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before December 26, 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, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email Nicholas_A_Fraser@omb.eop.gov; and to Nicole Ongele, FCC, via email PRA@fcc.gov and to Nicole.Ongele@fcc.gov. Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418-2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page <http://www.reginfo.gov/public/do/PRAMain>, (2) look for the section of the Web page called "Currently Under Review," (3) click on the downward-pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the

Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060-0819.

Title: Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund.

Form Numbers: FCC Form 555, FCC Form 481, FCC Form 497, FCC Form 5629, FCC Form 5630, FCC Form 5631.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households and business or other for-profit.

Number of Respondents and Responses: 20,094,358 respondents; 23,954,123 responses.

Estimated Time per Response: .0167 hours—250 hours.

Frequency of Response: Annual, biennial, monthly, daily and on occasion reporting requirements and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority is contained in Sections 1, 4(i), 5, 201, 205, 214, 219, 220, 254, 303(r), and 403 of the Communications Act of 1934, as amended, and section 706 of the Communications Act of 1996, as amended; 47 U.S.C. §§ 151, 154(i), 155, 201, 205, 214, 219, 220, 254, 303(r), 403, and 1302.

Total Annual Burden: 11,028,571 hours.

Total Annual Cost: \$937,500.

Privacy Act Impact Assessment: Yes. The Commission completed a Privacy Impact Assessment (PIA) for some of the information collection requirements contained in this collection. The PIA was published in the **Federal Register** at 82 FR 38686 on August 15, 2017. The PIA may be reviewed at: http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html.

Nature and Extent of Confidentiality: Some of the requirements contained in this information collection affect individuals or households, and thus, there are impacts under the Privacy Act. The FCC's system of records notice (SORN) associated with this collection is FCC/WCB-1, "Lifeline Program."

The Commission will use the information contained in FCC/WCB-1 to cover the personally identifiable information (PII) that is required as part of the Lifeline Program ("Lifeline"). As required by the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Commission published FCC/WCB-1 "Lifeline Program" in the **Federal Register** on August 15, 2017 (82 FR 38686).

Also, respondents may request materials or information submitted to the Commission or to the Universal Service Administrative Company (USAC or Administrator) be withheld from public inspection under 47 CFR 0.459 of the FCC's rules. We note that USAC must preserve the confidentiality of all data obtained from respondents; must not use the data except for purposes of administering the universal service programs; and must not disclose data in company-specific form unless directed to do so by the Commission.

Needs and Uses: The Commission will submit this information collection after this comment period to obtain approval from the Office of Management and Budget (OMB) of revisions to this information collection.

On April 27, 2016, the Commission released an order reforming its low-income universal service support mechanisms. Lifeline and Link Up Reform and Modernization; Telecommunications Carriers Eligible for Universal Service Support; Connect America Fund, WC Docket Nos. 11-42, 09-197, 10-90, Third Further Notice of Proposed Rulemaking, Order on Reconsideration, and Further Report and Order, (*Lifeline Third Reform Order*). This revision implements the new forms for the Lifeline program for consumer enrollment and certification, recertification, and one-per household verification. These forms are intended for use as standard forms for all consumers and ETCs participating in the Lifeline program. This revision also implements the transition to payment of the Lifeline reimbursement to ETCs based on data from USAC's NLAD database. In the Lifeline Third Reform Order, the Commission directed USAC to propose improved methods of providing payment to Lifeline providers that will reduce costs and burdens to the Fund and to Lifeline providers. In addition, the Commission seeks to update the number of respondents for certain requirements contained in this information collection, thus increasing the total burden hours for some requirements and decreasing the total burden hours for other requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017-25411 Filed 11-22-17; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of Intent To Terminate the Receivership of 10337, Community First Bank—Chicago

Notice is hereby given that the Federal Deposit Insurance Corporation (FDIC or Receiver) as Receiver for Community First Bank—Chicago, Chicago, Illinois, intends to terminate its receivership for said institution. The FDIC was appointed Receiver of Community First Bank—Chicago on February 4, 2011. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: November 16, 2017.

Robert E. Feldman,

Executive Secretary, Federal Deposit Insurance Corporation.

[FR Doc. 2017-25210 Filed 11-22-17; 8:45 am]

BILLING CODE 6714-01-P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and

§ 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 7, 2017.

A. Federal Reserve Bank of Dallas (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. *J. Edgerton Pierson, Jr. and the Jim Pierson Revocable Grantor Trust, both of Shreveport, Louisiana;* to retain voting shares of City Bancshares, Inc., Natchitoches, Louisiana; and *Virginia T. Pierson, Mary Lou Pierson Brown, Phillip G. Brown, each of Natchitoches, Louisiana, Patricia Pierson McAlpine, Kingwood, Texas, and J. Edgerton Pierson, Jr.;* as a group acting in concert to collectively retain voting shares of City Bancshares, Inc., Natchitoches, Louisiana and thereby, indirectly retain shares of City Bank & Trust Company, Natchitoches, Louisiana.

Board of Governors of the Federal Reserve System, November 17, 2017.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2017-25338 Filed 11-22-17; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

[Docket No. OP-1570]

Proposed Guidance on Supervisory Expectations for Boards of Directors

AGENCY: Board of Governors of the Federal Reserve System (Board).

ACTION: Notice; extension of comment period.

SUMMARY: On August 9, 2017, the Board published in the **Federal Register** proposed guidance on supervisory expectations for boards of directors. To facilitate effective public comment on the proposal, the Board previously extended the comment period from October 10, 2017, to November 30, 2017. The Board has determined that an additional extension of the comment period until February 15, 2018, is appropriate. This action will allow interested persons additional time to

analyze the proposal and prepare their comments.

DATES: Comments on the proposal must be received on or before February 15, 2018.

ADDRESSES: You may submit comments by any of the methods identified in the proposal. Please submit your comments using only one method.

FOR FURTHER INFORMATION CONTACT:

Michael Hsu, Associate Director, (202) 912-4330, Michael Solomon, Associate Director, (202) 452-3502, Richard Naylor, Associate Director, (202) 728-5854, Division of Supervision and Regulation; Ben McDonough, Assistant General Counsel, (202) 452-2036, Scott Tkacz, Senior Counsel, (202) 452-2744, Keisha Patrick, Senior Counsel, (202) 452-3559, or Chris Callanan, Senior Attorney, (202) 452-3594, Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551. For the hearing impaired only, Telecommunications Device for the Deaf (TDD) users may contact (202) 263-4869.

SUPPLEMENTARY INFORMATION: On August 9, 2017, the Board published in the **Federal Register** proposed guidance¹ on supervisory expectations for boards of directors of firms supervised by the Federal Reserve. The proposal addresses supervisory expectations for boards of directors of bank holding companies, savings and loan holding companies, state member banks, U.S. branches and agencies of foreign banking organizations, and systemically important nonbank financial companies designated by the Financial Stability Oversight Council for supervision by the Federal Reserve. For the largest domestic bank and savings and loan holding companies and systemically important nonbank financial companies, the proposal would establish attributes of effective boards centered on the board's core responsibilities, which support safety and soundness, and would provide the framework with which the Federal Reserve would evaluate the effectiveness of a firm's boards of directors. For all domestic bank and savings and loan holding companies, certain existing Federal Reserve Supervision and Regulation letters containing supervisory expectations for boards of directors would be revised or eliminated to more clearly distinguish a board's roles and responsibilities from those of senior management and allow boards to focus

¹ See "Proposed Guidance on Supervisory Expectation for Boards of Directors," 82 FR 37219 (August 9, 2017).

more of their time and resources on fulfilling their core responsibilities. The proposal stated that the comment period would close on October 10, 2017, which the Board previously extended to November 30, 2017.²

An additional extension of the comment period will provide an opportunity for the public to understand the proposed division of responsibilities between the board, senior management, and business line management and comment on the provisions of the proposal and the questions posed by the Board. Therefore, the Board is extending the end of the comment period for the proposal from November 30, 2017, to February 15, 2018.

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority, November 17, 2017.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2017-25372 Filed 11-22-17; 8:45 am]

BILLING CODE P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0155; Docket 2017-0053; Sequence 18]

Information Collection; Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division (MVCB) will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding prohibition of acquisition of products produced by forced or indentured child labor.

DATES: Submit comments on or before January 23, 2018.

ADDRESSES: Submit comments identified by Information Collection

9000-0155, Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor, by any of the following methods:

- **Regulations.gov:** <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by searching the OMB control number 9000-0155. Select the link "Comment Now" that corresponds with "Information Collection 9000-0155, Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor". Follow the instructions provided on the screen. Please include your name, company name (if any), and "Information Collection 9000-0155, Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor" on your attached document.

- **Mail:** General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Mr. Poe/IC 9000-0155, Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor.

Instructions: Please submit comments only and cite Information Collection 9000-0155, Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor, in all correspondence related to this collection. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Zenaída Delgado, Procurement Analyst, Acquisition Policy Division, GSA, at 202-969-7207, or email zenaida.delgado@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. Purpose

This information collection complies with Executive Order 13126, Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor.

Executive Order 13126 requires that this prohibition be enforced within the Federal acquisition system, including a provision that requires the contractor to certify to the contracting officer that the contractor or, in the case of an incorporated contractor, a responsible official of the contractor, has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any product furnished under the contract and that, on the basis of those efforts, the contractor is unaware of any such use of child labor.

The information collection requirements of the Executive Order are evidenced via the certification

requirements delineated at FAR 52.212-3 paragraph (i), and 52.222-18.

DoD, GSA and NASA analyzed the FY 2017 data from the System for Award Management (SAM) to develop the estimated burden hours for this information collection.

B. Annual Reporting Burden

Respondents: 1,104.

Responses per Respondent: 1.

Total Annual Responses: 1,104.

Hours per Response: 0.18.

Total Burden Hours: 198.

C. Public Comments

Public comments are particularly invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the FAR, including whether the information will have practical utility; the accuracy of the estimate of the burden of the information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. Please cite OMB Control No. 9000-0155, Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor, in all correspondence.

Dated: November 20, 2017.

Lorin S. Currit,

Director, Federal Acquisition Policy Division, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2017-25429 Filed 11-22-17; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, Office of Public Health Preparedness and Response (BSC, OPHPR)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of charter renewal.

SUMMARY: This gives notice under the Federal Advisory Committee Act of

² See "Proposed Guidance on Supervisory Expectation for Boards of Directors," 82 FR 47206 (October 11, 2017).

October 6, 1972, that the Board of Scientific Counselors, Office of Public Health Preparedness and Response (BSC, OPHPR), Centers for Disease Control and Prevention, Department of Health and Human Services, has been renewed for a 2-year period through November 5, 2019.

FOR FURTHER INFORMATION CONTACT: Samuel L. Groseclose D.V.M., M.P.H., Designated Federal Officer, Board of Scientific Counselors, Office of Public Health Preparedness and Response, CDC, HHS, 1600 Clifton Road NE., Mailstop D44, Atlanta, Georgia 30329-4027, Telephone 404/639-0637, slg0@cdc.gov.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2017-25440 Filed 11-22-17; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Breast and Cervical Cancer Early Detection and Control Advisory Committee (BCCEDCAC); Correction

Notice is hereby given of a change in the meeting of the Breast and Cervical Cancer Early Detection and Control Advisory Committee (BCCEDCAC); November 30, 2017, 9:00 a.m. to 5:00 p.m. EST and December 1, 2017 9:00 a.m. to 1:00 p.m. EST which was published in the **Federal Register** on October 12, 2017 Volume 82, Number 196, pages 47526-47527.

The call-in number and passcode should read as follows: Call-in number, 1-800-779-5359; passcode: 9955772.

FOR FURTHER INFORMATION CONTACT: Jameka Reese Blackmon, MBA, CMP, Designated Federal Officer, National Center for Chronic Disease Prevention and Health Promotion, CDC, 4770 Buford Highway NE., Mailstop F76, Atlanta, Georgia 30341-3717, (770) 488-4740; grz4@cdc.gov.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of

meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2017-25437 Filed 11-22-17; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, BSC, NCIPC; Notice of Charter Renewal

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of charter renewal.

SUMMARY: This gives notice under the Federal Advisory Committee Act of October 6, 1972, that the Board of Scientific Counselors, BSC, NCIPC, Centers for Disease Control and Prevention, Department of Health and Human Services, has been renewed for a 2-year period through November 3, 2019.

FOR FURTHER INFORMATION CONTACT:

Gwendolyn H. Cattledge, Ph.D., M.S.E.H., Deputy Associate Director for Science, NCIPC, CDC, 4770 Buford Highway NE., Mailstop F-63, Atlanta, GA 30341, Telephone (770) 488-1430. Email address: GCattledge@cdc.gov.

SUPPLEMENTARY INFORMATION: 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. 2017-25438 Filed 11-22-17; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, Office of Infectious Diseases (BSC, OID); Notice of Charter Renewal

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of charter renewal.

SUMMARY: This gives notice under the Federal Advisory Committee Act of October 6, 1972, that the Board of Scientific Counselors, Office of Infectious Diseases (BSC, OID), Centers for Disease Control and Prevention, Department of Health and Human Services, has been renewed for a 2-year period through October 31, 2019.

FOR FURTHER INFORMATION CONTACT: Robin Moseley, M.A.T., Designated Federal Officer, Board of Scientific Counselors, Office of Infectious Diseases, Centers for Disease Control and Prevention, Department of Health and Human Services, 1600 Clifton Road NE., Mailstop D10, Atlanta, Georgia 30329-4027, telephone (404) 639-4461, or email rrm1@cdc.gov.

SUPPLEMENTARY INFORMATION: 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. 2017-25439 Filed 11-22-17; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Phase Four of the National Action Plan To Prevent Health Care-Associated Infections: Road Map to Elimination; Coordination Among Federal Partners To Leverage HAI Prevention and Antibiotic Stewardship

AGENCY: U.S. Department of Health and Human Services, Office of the Secretary, Office of the Assistant Secretary for Health, Office of Disease Prevention and Health Promotion.

ACTION: Notice.

SUMMARY: The Office of Disease Prevention and Health Promotion and the Federal Steering Committee for the Prevention of HAIs have developed a new phase of the *National Action Plan to Prevent Health Care-Associated Infections: Road Map to Elimination (HAI Action Plan)*. The first three phases of the *HAI Action Plan* meaningfully enhanced coordination of federal efforts to address HAIs by establishing a structure to regularly share best practices, resources, and lessons learned among federal partners. Given the pressing public health threat of antibiotic resistance and the need to maximize efficiency of federal activities, the Steering Committee recognized the opportunity to leverage this existing committee and network of participants to enhance the implementation of the *CARB National Action Plan* goal of slowing the emergence of antibiotic resistant bacteria and preventing the spread of resistant infections through antibiotic stewardship programs. Thus, Phase Four of the *HAI Action Plan* focuses on the importance of antibiotic stewardship to prevent HAIs, and specifically highlights the coordination between various health agencies. Recommendations within Phase Four align and reinforce the goals and objectives of the *CARB National Action Plan*. This update to the *HAI Action Plan* reaffirms a federal commitment to improving health care quality and protecting the health of all Americans. Phase Four is titled: *Coordination among Federal Partners to Leverage HAI Prevention and Antibiotic Stewardship*. The Steering Committee and the Office of Disease Prevention and Health Promotion invite public and private professionals, organizations, and consumer representatives to provide comments on the most recent draft of Phase Four.

DATES: Comments on the proposed Phase Four of the *National Action Plan to Prevent Health Care-Associated Infections: Road Map to Elimination* must be received no later than 5 p.m. on December 26, 2017.

ADDRESSES: Interested persons or organizations are invited to submit written comments by any of the following methods:

- *Email:* OHQ@hhs.gov (please indicate in the subject line: Phase Four: HAI Action Plan).
- *Mail/Courier:* Office of Disease Prevention and Health Promotion, Attn: Division of Health Care Quality, Department of Health and Human Services, 1101 Wootton Parkway, Suite LL100, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Anna Gribble, Health Policy Fellow, Office of Disease Prevention and Health Promotion, via email at anna.gribble@hhs.gov.

SUPPLEMENTARY INFORMATION: HAIs are a significant cause of morbidity and mortality within the United States, and at any given time, approximately one in every 25 hospitalized patients has at least one HAI. This translates to approximately 1.7 million individuals each year. In 2008, the Department of Health and Human Services established the Steering Committee for the Prevention of HAIs. The Committee consists of senior-level leaders from across the Department including clinicians, scientists, and public health practitioners. In 2009, the first iteration of the *HAI Action Plan* was developed and focused on addressing high-priority HAI-related infections within acute care hospital settings. However, given the movement of patients between various health care settings, infection control and the prevention and elimination of HAIs could no longer be compartmentalized to any one type of facility. The Steering Committee decided to expand the scope of its activities to include additional settings and released a second phase of the *HAI Action Plan* in 2009 with three new areas of focus: HAIs in ambulatory surgical centers and end-stage renal disease facilities, as well as increasing influenza vaccination coverage among health care personnel. The Committee expanded the action plan yet again in 2013 with a third phase which included long-term care facilities. More recently, the emergence of antibiotic-resistant bacteria and the clear tie with health care-associated infections has led the Steering Committee to focus on antibiotic stewardship. In July 2016, the Steering Committee decided to develop Phase Four of the *HAI Action Plan* to cover the federal partners coordinated approach to preventing HAIs and implementing antibiotic stewardship initiatives and to describe the clear tie between these two health care quality concerns.

Interested persons or organizations are invited to submit written comments in response to the proposed Phase Four of the *HAI Action Plan*. Written comments should not exceed more than two pages. The comments should reference the specific section of the document to which feedback refers. To be considered, the person or representative from an organization must self-identify and submit the written comments by close of business on December 26, 2017.

Dated: November 20, 2017.

Don Wright,

Deputy Assistant Secretary for Health, (Disease Prevention and Health Promotion).

[FR Doc. 2017-25424 Filed 11-22-17; 8:45 am]

BILLING CODE 4150-32-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the National Preparedness and Response Science Board

AGENCY: Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) is hereby giving notice that the National Preparedness and Response Science Board (NPRSB) will hold a public teleconference on December 7, 2017.

DATES: The NPRSB meeting is December 7, 2017, from 12:00 p.m. to 1:00 p.m. EST.

ADDRESSES: We encourage members of the public to attend the teleconference. To register, send an email to nprsb@hhs.gov with "NPRSB Registration" in the subject line. Submit your comments to nprsb@hhs.gov or on the NPRSB Contact Form located at <http://www.phe.gov/Preparedness/legal/boards/nprsb/Pages/RFNBSBComments.aspx>.

SUPPLEMENTARY INFORMATION: Pursuant to section 319M of the Public Health Service Act (42 U.S.C. 247d-7f) and section 222 of the Public Health Service Act (42 U.S.C. 217a), HHS established the NPRSB. The Board shall provide expert advice and guidance to the HHS Secretary on scientific, technical, and other matters of special interest regarding current and future chemical, biological, nuclear, and radiological agents, whether naturally occurring, accidental, or deliberate. The NPRSB may also provide advice and guidance to the HHS Secretary and/or the Assistant Secretary for Preparedness and Response (ASPR) on other matters related to public health emergency preparedness and response.

Background: The NPRSB public meeting on December 7, 2017, is dedicated to the deliberation and vote on the Future of the NPRSB Work Group Draft Letter to the ASPR. We will post modifications to the agenda on the NPRSB December 7, 2017, meeting Web site, which is located at <https://www.phe.gov/nprsb>.

Availability of Materials: We will post all meeting materials prior to the meeting on the NPRSB December 7, 2017, meeting Web site located at <https://www.phe.gov/nprsb>.

Procedures for Providing Public Input: Members of the public attend by teleconference via a toll-free call-in phone number, which is available on the NPRSB Web site at <https://www.phe.gov/nprsb>.

We encourage members of the public to provide written comments that are relevant to the NPRSB teleconference prior to December 7, 2017. Send written comments by email to nprsb@hhs.gov with "NPRSB Public Comment" in the subject line. The NPRSB Chair will respond to all comments received by December 1, 2017, during the meeting.

Dated: November 15, 2017.

Robert P. Kadlec,

Assistant Secretary for Preparedness and Response, Department of Health and Human Services.

[FR Doc. 2017-25336 Filed 11-22-17; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of Meetings of the Tick-Borne Disease Working Group

AGENCY: Office of HIV/AIDS and Infectious Disease Policy, Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS), in accordance with Section 2062 of the *21st Century Cures Act*, announces the inaugural meetings of the Tick-Borne Disease Working Group (Working Group). For these first meetings, Working Group members will focus on plans to submit a report to the Secretary of HHS and Congress that is due December 2018. The report will address a number of issues related to tick-borne diseases, including: Ongoing research; advances in research; Federal activities; gaps in research; the Working Group's meetings; and the comments received by the Working Group. The report will also include any recommendations to the Secretary of Health and Human Services. Planning will include developing plans to solicit stakeholder input and establish subcommittees. Working Group members will also determine how and when future meetings will be conducted.

DATES: December 11, 2017, from 12:30 p.m. to 4:30 p.m., Eastern Time, and

December 12, 2017 from 9:00 a.m. to 4:30 p.m., Eastern Time.

ADDRESSES: Hubert H. Humphrey Building, Great Hall, 200 Independence Avenue SW., Washington, DC 20201; via webcast at: <https://www.hhs.gov/ash/advisory-committees/tickborne-disease/index.html>.

FOR FURTHER INFORMATION CONTACT:

James Berger, Office of HIV/AIDS and Infectious Disease Policy, Office of the Assistant Secretary for Health, Department of Health and Human Services; via email at tickbornedisease@hhs.gov.

SUPPLEMENTARY INFORMATION: Members of the public may attend the meetings in person or via webcast at <https://www.hhs.gov/ash/advisory-committees/tickbornedisease/index.html>.

In-person attendance at the meetings is limited to space available; therefore preregistration for public members is advisable and can be accomplished by registering at <http://events.r20.constantcontact.com/register/event?llr=zz7zptzab&oeidk=a07edrodfo088eae0cf> by Friday, December 8, 2017. On the day of the meetings, seating will be provided first to persons who have preregistered. People who have not preregistered will be accommodated on a first come, first served basis if additional seats are still available 10 minutes before the meetings start. Non-U.S. citizens who plan to attend in person are required to provide additional information and must notify the Working Group support staff via email at tickbornedisease@hhs.gov before November 30, 2017. Members of the public who wish to attend the meetings should enter from Independence Avenue. Please allow extra time to get through security.

The Working Group invites public comment on issues related to the Working Group's charge. It may be provided in-person at the meetings or in writing. Persons who wish to provide public comment in person should submit a request to do so via email at tickbornedisease@hhs.gov on or before December 1, 2017. In-person comments will be limited to three minutes each to accommodate as many speakers as possible. A total of 60 minutes will be allocated to public comment and may be divided between the two days of meetings. If more requests are received than can be accommodated, speakers will be randomly selected. The nature of the comments will not be considered in making this selection.

Public comment may also be provided in writing only. Individuals who would like to provide written public comment should send their comments to

tickbornedisease@hhs.gov on or before December 6, 2017.

Meeting information is available at the group's Web page: <https://www.hhs.gov/ash/advisory-committees/tickbornedisease/index.html> or by contacting the Working Group via email at tickbornedisease@hhs.gov to request additional information.

Purpose of Meetings: Working Group members will focus on plans to submit a report to the Secretary of HHS and Congress that is due December 2018. The report will address a number of issues related to tick-borne diseases, including: Ongoing research; advances in research; Federal activities; gaps in research; the Working Group's meetings; and the comments received by the Working Group. The report will also include any recommendations to the Secretary of Health and Human Services. Planning will include developing plans to solicit stakeholder input and establish subcommittees. Working Group members will also determine how and when future meetings will be conducted.

Background and Authority: The Tick-Borne Disease Working Group was established on August 10, 2017, in accordance with Section 2062 of the *21st Century Cures Act*, and the Federal Advisory Committee Act, 5 U.S.C. App., as amended, to provide expertise and review all HHS efforts related to tick-borne diseases to help ensure interagency coordination and minimize overlap, examine research priorities, and identify and address unmet needs. The Working Group will submit a report to the Secretary of HHS and Congress on issues related to tick-borne diseases, including: Ongoing research; Advances in research; Federal activities; gaps in research; the Working Group's meetings; and the comments by the Working Group.

Structure, Membership, and Operation: The Working Group consists of 14 members selected to represent a diverse range of stakeholder perspectives. Seven members were nominated and selected from the public, and seven members, or their designees, represent federal agencies doing this work. A roster of Working Group members is available at the Working Group's Web page: <https://www.hhs.gov/ash/advisory-committees/tickbornedisease/index.html>.

Dated: November 15, 2017.

Richard Wolitski,

Director, Office of HIV/AIDS and Infectious Disease Policy, Designated Federal Officer, Tick-Borne Disease Working Group.

[FR Doc. 2017-25425 Filed 11-22-17; 8:45 am]

BILLING CODE 4150-28-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

NIH Pathways to Prevention Workshop: Methods for Evaluating Natural Experiments in Obesity

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Institutes of Health (NIH) will host a workshop about Methods for Evaluating Natural Experiments in Obesity on December 5–6, 2017. The workshop is free and open to the public.

DATES: December 5, 2017 from 8:15 a.m. to 5:15 p.m. and December 6, 2017 from 8:15 a.m. to 1:20 p.m.

ADDRESSES: The workshop will be held at the NIH, Natcher Conference Center, Building 45, 9000 Rockville Pike, Bethesda, Maryland 20892. Registration and workshop information are available on the NIH Office of Disease Prevention (ODP) Web site at <https://prevention.nih.gov/P2PObesity>.

FOR FURTHER INFORMATION CONTACT: For further information concerning this workshop, contact Kate Winseck at NIHP2P@mail.nih.gov, 6100 Executive Blvd., Room 2B03, MSC 7523, Bethesda, MD 20892–7523; Telephone: 301–827–5561; FAX: 301–480–7660.

SUPPLEMENTARY INFORMATION: Obesity is a major contributor to serious health conditions in children and adults. The prevalence of obesity in the United States and globally has grown rapidly in the last three decades; thus, there is a pressing need to help people achieve and maintain a healthy weight.

Obesity and obesity-related conditions such as type 2 diabetes and certain types of cancers contribute to increased morbidity and mortality across the lifespan, resulting in a significant public health and economic burden. In 2008, the medical costs in the United States for individuals with obesity were \$1,429 higher than for those with normal weight, resulting in an estimated annual medical cost of \$147 billion (CDC).

Much is already known about obesity, including many of its proximate causes:

- Poor-quality diet
- Overconsumption of calories
- Lack of physical activity
- Excessive sedentary time

However, because multiple factors (lifestyle, socioeconomic, the environment, etc.) contribute to obesity, it remains an exceedingly complex condition to study.

Major gaps exist in our understanding of appropriate and effective societal and systems changes to achieve a healthier energy balance (intake [calories] vs. output [activity]) for individuals. In part, these gaps are related to the amount of research completed to date and to methodological challenges, which range from measuring environmental influences on the causes of obesity to designing and implementing practical and rigorous evaluations of natural experiments. Studies of natural experiments can allow insights into the effects that programs, interventions, or policies have on health-related outcomes including obesity. In obesity prevention research, these include:

- Effects of investments in transportation infrastructure such as light rail or bike share programs
- Changes in the food environment, such as construction of new food retail outlets in food deserts or support for farmers' markets
- Consequences of economic policies such as taxes and subsidies, particularly those addressing low-income and at-risk populations
- Changes within organizations such as schools or workplaces
- Changes in health care systems related to prevention of obesity.

Evaluating natural experiments in obesity prevention has seen growing support and interest. However, incomplete development and lack of standardization in study designs, data collection methods, and statistical approaches present significant challenges to this research. Closing gaps in obesity prevention research has the potential to advance the field and effect change in obesity prevention nationally.

The National Institutes of Health (NIH) is engaging in a rigorous assessment of the available scientific evidence to better understand appropriate, high-quality natural experiment research designs in the field of obesity prevention and control. The NIH Office of Disease Prevention (ODP); National Cancer Institute (NCI); National Heart, Lung, and Blood Institute (NHLBI); and National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK) are sponsoring the Pathways to Prevention Workshop: Methods for Evaluating Natural Experiments in Obesity on December 5–6, 2017, in Bethesda, Maryland. The workshop seeks to clarify the following questions:

1. What population-based data sources have been used in studies of how programs, policies, or built environment changes affect or are

associated with obesity prevention and control outcomes?

2. What methods have been used to link different population-based data sources?

3. What obesity measures, dietary and physical behaviors, and other outcomes have been assessed in studies of how programs, policies, or built environment changes affect or are associated with obesity prevention and control?

4. Which experimental and non-experimental methods have been used in studies of how programs, policies, or built environment changes affect or are associated with obesity prevention and control outcomes?

5. What are the risks of bias in studies of how programs, policies, or built environment changes affect or are associated with obesity prevention and control outcomes?

6. What methodological/analytic advances (e.g., data system features, approaches to linking data sources, or analytic methods) would help to strengthen efforts to estimate the effect of programs, policies, or built environment changes on obesity prevention and control?

During the 1½-day workshop, experts discuss the state of the science, an evidence report prepared by an Agency for Healthcare Research and Quality Evidence-based Practice Center is presented, and attendees provide comments during open discussion periods. After weighing all evidence, an unbiased, independent panel prepares a draft report that identifies research gaps and future research priorities. The draft report is posted on the ODP Web site for public comment. After reviewing the public comments, the panel prepares a final report, which is also posted on the ODP Web site. The ODP then convenes a Federal Partners Meeting to review the panel report and identify possible opportunities for collaboration.

Please Note: As part of measures to ensure the safety of NIH employees and property, all visitors must be prepared to show a photo ID upon request. Visitors may be required to pass through a metal detector and have bags, backpacks, or purses inspected or X-rayed as they enter the NIH campus. For more information about the security measures at the NIH, please visit <http://www.nih.gov/about/visitorsecurity.htm>.

Dated: November 15, 2017.

Lawrence A. Tabak,
Deputy Director, National Institutes of Health.
[FR Doc. 2017–25335 Filed 11–22–17; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**National Institutes of Health****Center for Scientific Review; Notice of Closed Meetings**

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: AIDS and Related Research.

Date: December 13, 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: Robert Freund, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7852, Bethesda, MD 20892, 301-435-1050, freundr@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: AIDS and Related Research.

Date: December 15, 2017.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Robert Freund, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7852, Bethesda, MD 20892, 301-435-1050, freundr@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: November 17, 2017.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2017-25339 Filed 11-22-17; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HOMELAND SECURITY**Coast Guard**

[Docket No. USCG-2017-1023]

Certificate of Alternative Compliance for the TUG BERT REINAUER

AGENCY: Coast Guard, DHS.

ACTION: Notice.

SUMMARY: The Coast Guard has issued a Certificate of Alternative Compliance (COAC) to the TUG BERT REINAUER because it is a vessel of special construction or purpose, that, with respect to the position of its navigation and towing lights, is not able to fully comply with the provisions of the International Regulations for Preventing Collisions at Sea, 1972, without interfering with the normal operation of the vessel. Our publication of this notice fulfills a statutory requirement and promotes maritime security.

DATES: The Certificate of Alternative Compliance was issued on November 16, 2017.

FOR FURTHER INFORMATION CONTACT: For information or questions about this notice call or email Mr. Kevin Miller, First District Towing Vessel/Barge Safety Specialist, U.S. Coast Guard; telephone (617) 223-8272, email Kevin.L.Miller2@uscg.mil.

SUPPLEMENTARY INFORMATION: The United States is signatory to the International Maritime Organization's International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), as amended. The special construction or purpose of some vessels makes them unable to comply with the light, shape, and sound signal provisions of the 72 COLREGS. Under statutory law¹ and Coast Guard regulation,² a vessel may instead meet alternative requirements and the vessel's owner, builder, operator, or agent may apply for a Certificate of Alternate Compliance (COAC).

For vessels of special construction, the cognizant Coast Guard District Office determines whether the vessel for which the COAC is sought complies as closely as possible with the 72 COLREGS, and decides whether to issue the COAC. The Coast Guard issued a COAC to the TUG BERT REINAUER on November 16, 2017. That COAC will remain valid until information supplied in the COAC application or the COAC terms become inapplicable to the vessel.

¹ 33 U.S.C. 1605(c).

² 33 CFR 81.3.

Under the governing statute³ and regulation,⁴ the Coast Guard must publish notice of having issued this COAC. This notice promotes maritime safety by informing vessels that may encounter the TUG BERT REINAUER to expect alternative positioning of its navigation and towing lights.

The Commandant, U.S. Coast Guard, certifies that the TUG BERT REINAUER is a vessel of special construction or purpose, and that, with respect to the position of the navigation and towing lights, it is not possible to comply fully with the requirements of the provisions enumerated in the 72 COLREGS, without interfering with the normal operation of the vessel. The Commandant further finds and certifies that the sidelights (9' 7" from the vessel's side mounted on the pilot house) are in the closet possible compliance with the applicable provisions of the 72 COLREGS and that full compliance with the 72 COLREGS would not significantly enhance the safety of the vessel's operation.

This notice is issued under authority of 33 U.S.C. 1605(c) and 33 CFR 81.18.

Dated: November 20, 2017.

Byron L. Black,

Prevention Chief, First Coast Guard District.

[FR Doc. 2017-25418 Filed 11-22-17; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY**Coast Guard**

[Docket No. USCG-2017-1003]

National Maritime Security Advisory Committee

AGENCY: U.S. Coast Guard, Department of Homeland Security.

ACTION: Notice of Federal Advisory Committee teleconference meeting.

SUMMARY: The National Maritime Security Advisory Committee will meet via teleconference, to review and discuss the results of the "Navigation and Vessel Inspection Circular 05-17; Guidelines for Addressing Cyber Risks at Maritime Transportation Security Act Regulated Facilities" task. This teleconference will be open to the public.

DATES: The Committee will meet on Thursday, December 14, 2017, from 1:00 p.m. to 2:30 p.m. This teleconference may close early if all business is finished.

³ 33 U.S.C. 1605(c).

⁴ 33 CFR 81.18.

ADDRESSES: The teleconference will be broadcast via a web enabled interactive online format and teleconference line. To participate via teleconference, dial 1-202-475-4000; the passcode to join is 764 990 20#. Additionally, if you would like to participate in this teleconference via the online web format, please log onto <https://share.dhs.gov/nmsac/> and follow the online instructions to register for this meeting. If you encounter technical difficulties, contact Mr. Ryan Owens at (202) 302-6565.

For information on facilities or services for individuals with disabilities, or to request special assistance at the meetings, contact the individual listed in **FOR FURTHER INFORMATION CONTACT** below as soon as possible.

Instructions: You are free to submit comments at any time, including orally at the meetings, but if you want Committee members to review your comment before the meetings, please submit your comments no later than December 7, 2017. We are particularly interested in comments on the issues in the "Agenda" section below. You must include "Department of Homeland Security" and the docket number USCG-2017-1003. Written comments must be submitted using the Federal eRulemaking Portal: <http://www.regulations.gov>. If you encounter technical difficulties, contact the individual in the **FOR FURTHER INFORMATION CONTACT** section of this document. Comments received will be posted without alteration at <http://www.regulations.gov> including any personal information provided. You may review a Privacy Act and Security Notice for the Federal Docket Management System at <http://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>, and use "USCG-2017-1003" in the "Search" box, press Enter, and then click on the item you wish to view.

FOR FURTHER INFORMATION CONTACT: Mr. Ryan Owens, Alternate Designated Federal Officer of the National Maritime Security Advisory Committee, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593, Stop 7581, Washington, DC 20593-7581; telephone 202-372-1108 or email ryan.f.owens@uscg.mil.

SUPPLEMENTARY INFORMATION: Notice of this meeting is in compliance with the *Federal Advisory Committee Act*, (Title 5, United States Code, Appendix). The National Maritime Security Advisory Committee operates under the authority

of 46 U.S.C. 70112. The National Maritime Security Advisory Committee provides advice, consults with, and makes recommendations to the Secretary of Homeland Security, via the Commandant of the Coast Guard, on matters relating to national maritime security.

Agenda of Meeting

(1) Results of the Cyber Security Working Group

The Committee will meet to review and discuss the results of the Cyber Security Working Group to address the questions posed to the Committee at the September public meeting in regards to the Navigation and Vessel Inspection Circular 05-17; Guidelines for Addressing Cyber Risks at Maritime Transportation Security Act Regulated Facilities.

(2) Public Comment Period

A copy of all meeting documentation will be available at <https://homeport.uscg.mil/NMSAC> by December 7, 2017.

There will be a public comment period at the end of the meeting. Speakers are requested to limit their comments to 5 minutes and keep their remarks to the topic of the Navigation and Vessel Inspection Circular 05-17; Guidelines for Addressing Cyber Risks at Maritime Transportation Security Act Regulated Facilities. Please note that the public comment period may end before the period allotted, following the last call for comments. Contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section above to register as a speaker.

Dated: November 17, 2017.

Jennifer F. Williams,
Captain, U.S. Coast Guard, Director of
Inspections and Compliance.

[FR Doc. 2017-25404 Filed 11-22-17; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG-2010-1066]

Recreational Boating Safety Projects, Programs, and Activities Funded Under Provisions of the Fixing America's Surface Transportation Act; Fiscal Year 2017

ACTION: Notice.

SUMMARY: The Coast Guard is publishing this notice to satisfy a requirement of the Fixing America's Surface

Transportation Act that a detailed accounting of the projects, programs, and activities funded under the national recreational boating safety program provision of the Act be published annually in the **Federal Register**. This notice specifies the funding amounts the Coast Guard has committed, obligated, or expended during fiscal year 2017, as of September 30, 2017.

FOR FURTHER INFORMATION CONTACT: For questions on this notice please contact Mr. Jeff Ludwig, U.S. Coast Guard, Regulations Development Manager, (202) 372-1061.

SUPPLEMENTARY INFORMATION:

Background and Purpose

Since 1998, Congress has passed a series of laws providing funding for projects, programs, and activities funded under the national recreational boating safety program, which is administered by the U.S. Coast Guard. For a detailed description of the legislative history, please see the Recreational Boating Safety Projects, Programs, and Activities Funded Under Provisions of the Fixing America's Surface Transportation Act; Fiscal Year 2016 Notice published in the **Federal Register** on April 12, 2017 (82 FR 17671).

These funds are available to the Secretary from the Sport Fish Restoration and Boating Trust Fund (Trust Fund) established under 26 U.S.C. 9504(a) for payment of Coast Guard expenses for personnel and activities directly related to coordinating and carrying out the national recreational boating safety program. Amounts made available under this subsection remain available during the two succeeding fiscal years. Any amount that is unexpended or unobligated at the end of the 3-year period during which it is available, shall be withdrawn by the Secretary and allocated to the States in addition to any other amounts available for allocation in the fiscal year in which they are withdrawn or the following fiscal year.

Use of these funds requires compliance with standard Federal contracting rules with associated lead and processing times resulting in a lag time between available funds and spending. The total amount of funding transferred to the Coast Guard from the Trust Fund, and committed, obligated, and/or expended during fiscal year 2017 for each project is shown below.

Specific Accounting of Funds

The total amount of funding transferred to the Coast Guard from the Sport Fish Restoration and Boating

Trust Fund and committed, obligated, and/or expended during fiscal year 2017 for each project is shown in the chart below.

Project	Description	Cost
46 USC 43 Compliance: Inspection Program/Boat Testing Program.	Provided for continuance of the national recreational boat compliance inspection program, which began in January 2001.	\$1,837,556
46 USC 43 Compliance: Staff Salaries and Travel.	Provided for personnel to oversee manufacturer compliance with 46 U.S.C. 43 requirements and staff travel to verify manufacturer compliance with 46 U.S.C. 43 requirements.	528,210
Administrative Overhead	Office supplies	12,117
Boating Accident Report Database (BARD) Web System.	Provided for maintaining the BARD Web System, which enables reporting authorities in the 50 States, five U.S. Territories, and the District of Columbia to submit their accident reports electronically over a secure Internet connection.	290,343
Contract Personnel Support	Provided contract personnel to conduct boating safety-related research and analysis.	634,390
Boating Accident News Clipping Services	Provided for the collection of news stories of recreational boating accidents for more real time accident information and to identify accidents that may involve regulatory non-compliances or safety defects.	25,000
National Boating Safety Advisory Council	Provided for member travel and meeting costs for the 96th & 97th National Boating Safety Advisory Council meetings.	56,230
Grant Management Training	Provided to facilitate staff training on new grant management requirements	130,883
Recreational Boating Safety Program Travel.	Provided for travel by employees of the Boating Safety Division to gather background and planning information for new recreational boating safety initiatives.	113,780
Reimbursable Salaries	Provided for 18 personnel directly related to coordinating and carrying out the national recreational boating safety program.	2,438,844
Printing	Provided for printing of boating safety-related brochures	350,000
National Recreational Boating Safety Survey.	Provided for development and implementation of the 2018 National Recreational Boating Safety Survey.	4,025,096

Of the \$7.8 million made available to the Coast Guard in fiscal year 2017, \$6,439,358 has been committed, obligated, or expended and an additional \$4,003,091 of prior fiscal year funds have been committed, obligated, or expended, as of September 30, 2017. The remainder of the FY16 and FY17 funds made available to the Coast Guard (approximately \$3,367,929) may be retained for the allowable period for the National Recreational Boating Survey, other projects, or transferred into the pool of money available for allocation through the state grant program.

Authority: This notice is issued pursuant to 5 U.S.C. 552 and 46 U.S.C. 13107(c)(4).

Dated: November 17, 2017.

J.F. Williams,

Captain, U.S. Coast Guard, Director of Inspections & Compliance.

[FR Doc. 2017-25393 Filed 11-22-17; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651-0055]

Agency Information Collection

Activities: Harbor Maintenance Fee

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection 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 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted (no later than January 23, 2018) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651-0055 in the subject line and the agency name. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Email.* Submit comments to: CBP_PRA@cbp.dhs.gov.

(2) *Mail.* Submit written comments to CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE., 10th Floor, Washington, DC 20229-1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade,

Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE., 10th Floor, Washington, DC 20229-1177, or via email CBP_PRA@cbp.dhs.gov. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877-227-5511, (TTY) 1-800-877-8339, or CBP Web site at <https://www.cbp.gov/>.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions 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, e.g., permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Harbor Maintenance Fee.
OMB Number: 1651-0055.
Form Number: CBP Forms 349 and 350.

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to Forms 349 and 350.

Type of Review: Extension (without change).

Abstract: The Harbor Maintenance Fee (HMF) and Trust Fund is used for the operation and maintenance of certain U.S. channels and harbors by the Army Corps of Engineers. U.S. Customs and Border Protection (CBP) is required to collect the HMF from importers, domestic shippers, and passenger vessel operators using federal navigation projects. Commercial cargo loaded on or unloaded from a commercial vessel is subject to a port use fee of 0.125 percent of its value if the loading or unloading occurs at a port that has been designated by the Army Corps of Engineers. The HMF also applies to the total ticket value of embarking and disembarking passengers and on cargo admissions into a Foreign Trade Zone (FTZ).

CBP Form 349, *Harbor Maintenance Fee Quarterly Summary Report*, and CBP Form 350, *Harbor Maintenance Fee Amended Quarterly Summary Report* are completed by domestic shippers, foreign trade zone applicants, and passenger vessel operators and submitted with payment to CBP.

CBP uses the information collected on CBP Forms 349 and 350 to verify that the fee collected is timely and accurately submitted. These forms are authorized by the Water Resources Development Act of 1986 (26 U.S.C. 4461, *et seq.*) and provided for by 19 CFR 24.24, which also includes the list of designated ports. CBP Forms 349 and 350 are accessible at <http://www.cbp.gov/newsroom/publications/forms> or they may be completed and filed electronically at www.pay.gov.

Affected Public: Businesses.

CBP Form 349

Estimated Number of Respondents: 560.

Estimated Number of Total Annual Responses: 2,240.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 1,120.

CBP Form 350

Estimated Number of Respondents: 15.

Estimated Number of Total Annual Responses: 60.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 30.

Recordkeeping

Estimated Number of Respondents: 575.

Estimated Number of Total Annual Responses: 575.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 96.

Dated: November 20, 2017.

Seth Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2017-25380 Filed 11-22-17; 8:45 am]

BILLING CODE 9111-14-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Customs Brokers User Fee Payment for 2018

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

ACTION: General notice.

SUMMARY: This document provides notice to customs brokers that the annual user fee that is assessed for each permit held by a broker, whether it may be an individual, partnership, association, or corporation, is due by January 26, 2018. Pursuant to fee adjustments required by the Fixing America's Surface Transportation Act (FAST Act) and CBP regulations, the annual user fee for calendar year 2018 will be \$141.70.

DATES: Payment of the 2018 Customs Broker User Fee is due by January 26, 2018.

FOR FURTHER INFORMATION CONTACT: Julia Peterson, Broker Management Branch, Office of Trade, (202) 863-6601.

SUPPLEMENTARY INFORMATION:

Pursuant to section 111.96 of title 19 of the Code of Federal Regulations (19 CFR 111.96(c)), U.S. Customs and

Border Protection (CBP) assesses an annual user fee for each customs broker district and national permit held by an individual, partnership, association, or corporation. CBP regulations provide that this fee is payable for each calendar year in each broker district where the broker was issued a permit to do business by the due date. See 19 CFR 24.22(h) and (i)(9). Broker districts are defined in the General Notice entitled, "Geographic Boundaries of Customs Brokerage, Cartage and Lighterage Districts," published in the **Federal Register** on March 15, 2000 (65 FR 14011), and corrected, with minor changes, on March 23, 2000 (65 FR 15686) and on April 6, 2000 (65 FR 18151).

On December 4, 2015, the Fixing America's Surface Transportation Act (FAST Act, Pub. L. 114-94) was signed into law. Section 32201 of the FAST Act amended section 13031 of the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985 (19 U.S.C. 58c) by requiring certain customs COBRA user fees and corresponding limitations to be adjusted by the Secretary of the Treasury (Secretary) to reflect certain increases in inflation.

On November 1, 2017, CBP published a final rule, CBP Dec. 17-16 (82 FR 50523), which amended sections 24.22 and 24.23 of title 19 of the Code of Federal Regulations (19 CFR 24.22 and 24.23) to implement the requirements of the FAST Act. Specifically, CBP created a new paragraph (k) in section 24.22 (19 CFR 24.22(k)) that sets forth the methodology to determine the change in inflation as well as the factor by which the fees and limitations will be adjusted, if necessary. The customs broker user fee is set forth in Appendix A of part 24. (19 CFR 24.22 Appendix A). On November 1, 2017, CBP also published a **Federal Register** notice, CBP Dec. 17-17, which among other things, announced that the annual broker permit user fee will increase to \$141.70 for calendar year 2018. See 82 FR 50659.

As required by 19 CFR 111.96, CBP must provide notice in the **Federal Register** no later than 60 days before the date that the payment is due for each broker permit. This document notifies customs brokers that for calendar year 2018, the due date for payment of the user fee is January 26, 2018.

Dated: November 20, 2017.

Brenda B. Smith,

Executive Assistant Commissioner, Office of Trade.

[FR Doc. 2017-25435 Filed 11-22-17; 8:45 am]

BILLING CODE 9111-14-P

DEPARTMENT OF HOMELAND SECURITY**[Docket No. DHS-2017-0064]****Meeting: Homeland Security Advisory Council****AGENCY:** The Office of Partnership and Engagement, DHS.**ACTION:** Notice of partially closed Federal Advisory Committee meeting.**SUMMARY:** The Homeland Security Advisory Council ("Council") will meet in person on Friday, December 8, 2017. Members of the public may participate in person. The meeting will be partially closed to the public.**DATES:** The Council will meet Friday, December 8, 2017, from 10:15 a.m. to 4:30 p.m. EST. The meeting will be open to the public from 2:30 p.m. to 3:30 p.m. EST. Please note the meeting may close early if the Council has completed its business. The meeting will be closed to the public from 10:15 a.m. to 12:30 p.m., 1:30 p.m. to 2:15 p.m., and 3:45 p.m. to 4:30 p.m. EST.**ADDRESSES:** The meeting will be held at the Woodrow Wilson International Center for Scholars ("Wilson Center"), located at 1300 Pennsylvania Avenue NW., Washington, DC 20004. All visitors will be processed through the lobby of the Wilson Center. Written public comments prior to the meeting must be received by 5:00 p.m. EST on Monday, December 4, 2017, and must be identified by Docket No. DHS-2017-0064. Written public comments after the meeting must be identified by Docket No. DHS-2017-0064 and may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Email:* HSAC@hq.dhs.gov. Include Docket No. DHS-2017-0064 in the subject line of the message.
- *Fax:* (202) 282-9207.
- *Mail:* Homeland Security Advisory Council, Attention Mike Miron, Department of Homeland Security, Mailstop 0445, 245 Murray Lane SW., Washington, DC 20528.

Instructions: All submissions received must include the words "Department of Homeland Security" and "DHS-2016-0056," the docket number for this action. Comments received will be posted without alteration at <http://www.regulations.gov>, including any personal information provided.**Docket:** For access to the docket to read comments received by the Council, go to <http://www.regulations.gov>, search "DHS-2016-0022," "Open Docket Folder" and provide your comments.**FOR FURTHER INFORMATION CONTACT:** Mike Miron at HSAC@hq.dhs.gov or at (202) 447-3135.**SUPPLEMENTARY INFORMATION:** Notice of this meeting is given under Section 10(a) of the Federal Advisory Committee Act (FACA), Public Law 92-463 (5 U.S.C. Appendix), which requires each FACA committee meeting to be open to the public.

The Council provides organizationally independent, strategic, timely, specific, actionable advice, and recommendations to the Secretary of the Department of Homeland Security on matters related to homeland security. The Council is comprised of leaders of local law enforcement, first responders, Federal, State, and local government, the private sector, and academia.

The Council will meet in an open session between 2:30 p.m. to 3:30 p.m. EST. The Council will swear in new members, and receive new taskings.

The Council will meet in a closed session from 10:15 a.m. to 12:30 p.m. EST, 1:30 p.m. to 2:30 p.m., and from 3:45 p.m. to 4:30 p.m. EST, to receive sensitive operational information from senior officials on current counterterrorism threats, border security, the Transportation and Security Administration, and cybersecurity.

Basis for Partial Closure: In accordance with Section 10(d) of the Federal Advisory Committee Act (FACA), the Secretary of the Department of Homeland Security has determined this meeting requires partial closure. The disclosure of the information relayed would be detrimental to the public interest for the following reasons:

The Council will receive closed session briefings from senior officials. These briefings will concern matters sensitive to homeland security within the meaning of 5 U.S.C. 552b(c)(7)(E) and 552b(c)(9)(B). The Council will receive operational counterterrorism updates on the current threat environment and security measures associated with countering such threats, including those related to aviation security programs, border security, immigration enforcement, and cybersecurity.

The session is closed under 5 U.S.C. 552b(c)(7)(E) because disclosure of that information could reveal investigative techniques and procedures not generally available to the public, allowing terrorists and those with interests against the United States to circumvent the law and thwart the Department's strategic initiatives. In addition, the session is closed pursuant to 5 U.S.C. 552b(c)(9)(B) because disclosure of these

techniques and procedures could frustrate the successful implementation of protective measures designed to keep our country safe.

Participation: Members of the public will have until 5:00 p.m. EST on Friday, December 1, 2017, to register to attend the Council meeting on December 8, 2017. Due to limited availability of seating, admittance will be on a first-come first-serve basis. Participants interested in attending the meeting can contact Mike Miron at HSAC@hq.dhs.gov or (202) 447-3135. You are required to provide your full legal name, date of birth, and company/agency affiliation. The public may access the facility via public transportation or use the public parking garages located near the Wilson Center. Directions to the Wilson Center can be found at: <http://wilsoncenter.org/directions>. Members of the public will meet at 2:00 p.m. EST at the Wilson Center's main entrance for sign in and escorting to the meeting room for the public session. Late arrivals after 2:30 p.m. EST will not be permitted access to the facility.**Facility Access:** You are required to present a valid original government issued ID, to include a State Driver's License or Non-Driver's Identification Card, U.S. Government Common Access Card (CAC), Military Identification Card or Person Identification Verification Card; U.S. Passport, U.S. Border Crossing Card, Permanent Resident Card or Alien Registration Card; or Native American Tribal Document.**Information of Services for Individuals with Disabilities:** For information on facilities or services for individuals with disabilities, or to request special assistance at the meeting, contact Mike Miron at HSAC@hq.dhs.gov or (202) 447-3135 as soon as possible.

Dated: November 20, 2017.

Michael McKeown,*Executive Director, Homeland Security Advisory Council, DHS.*

[FR Doc. 2017-25423 Filed 11-22-17; 8:45 am]

BILLING CODE 9110-9M-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615-0101]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Document Verification Request and Supplement

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until January 23, 2018.

ADDRESSES: All submissions received must include the OMB Control Number 1615-0101 in the body of the letter, the agency name and Docket ID USCIS-2008-0008. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal Web site at <http://www.regulations.gov> under e-Docket ID number USCIS-2008-0008;

(2) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW, Washington, DC 20529-2140.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommès, Chief, 20 Massachusetts Avenue NW., Washington, DC 20529-2140, telephone number 202-272-8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking

information about the status of their individual cases can check Case Status Online, available at the USCIS Web site at <http://www.uscis.gov>, or call the USCIS National Customer Service Center at 800-375-5283 (TTY 800-767-1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: <http://www.regulations.gov> and enter USCIS-2008-0008 in the search box. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at <http://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of <http://www.regulations.gov>.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Document Verification Request and Supplement.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form G-845; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Federal Government; State, local or Tribal Government.

In the verification process, a participating agency validates an applicant's immigration status by inputting identifying information into the Verification Information System (VIS), which executes immigration status queries against a range of data sources. If VIS returns an immigration status and the benefit-issuing agency does not find a material discrepancy with the response and the documents provided by the applicant, the verification process is complete. Then, the agency may use that immigration status information to determine whether to issue the benefit.

If VIS does not locate a record pertaining to the applicant during an electronic initial verification, a second step additional verification must be requested by the agency, so that a Status Verifier can manually check the records. If the Status Verifier cannot determine status during the second step additional verification, they will request the agency to submit a copy of the applicant's immigration document. The immigration document can be submitted using scan and upload or by attaching it to a Form G-845 and mailing it to the Status Verifier.

Applicants may check on the processing of additional verification through the SAVE Case Check web portal, found at <http://www.uscis.gov/save/save-case-check>. SAVE Case Check permits applicants to use the SAVE verification numbers associated with their benefit applications or the immigration identification numbers and dates of birth provided to those benefit granting agencies to access this information.

In limited cases, agencies may query USCIS by filing Form G-845 by mail. Although the Form G-845 does not require it, if needed, certain agencies may also file the Form G-845 Supplement with the Form G-845, along with copies of immigration documents to receive additional information necessary to make their benefit determinations. These forms were developed to facilitate communication between all benefit-granting agencies and USCIS to ensure that basic information required to assess status verification requests is provided.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection G–845 Verification Request is 162,106 and the estimated hour burden per response is 0.083 hours; for the information collection VIS Query the estimated total number of respondents is 23,293,981 and the estimated hour burden per response is 0.083 hours; for the information collection G–845, Verification Request Supplement, the estimated total number of respondents is 7,122 and the estimated hour burden per response is 0.083 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 1,947,446 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is \$12,113,642.50.

Dated: November 16, 2017

Samantha Deshombres,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2017–25351 Filed 11–22–17; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0015]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Immigrant Petition for Alien Workers

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension/revision of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.*

the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until January 23, 2018.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0015 in the body of the letter, the agency name and Docket ID USCIS–2007–0018. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal Web site at <http://www.regulations.gov> under e-Docket ID number USCIS–2007–0018;

(2) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshombres, Chief, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, telephone number 202–272–8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS Web site at <http://www.uscis.gov>, or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: <http://www.regulations.gov> and enter USCIS–2007–0018 in the search box. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at <http://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact

the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of <http://www.regulations.gov>.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Immigrant Petition for Alien Workers.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–140; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for Profit. USCIS uses the information provided on Form I–140 to classify aliens under section 203(b)(1), 203(b)(2) or 203(b)(3) of the Immigration and Nationality Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–140 is 225,637 and the estimated hour burden per response is 1.08 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 243,688 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this

collection of information is \$93,977,810.

Dated: November 16, 2017.

Samantha Deshommnes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2017-25348 Filed 11-22-17; 8:45 am]

BILLING CODE 9111-97-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615-0003]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension/revision of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.*, the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until January 23, 2018.

ADDRESSES: All submissions received must include the OMB Control Number 1615-0003 in the body of the letter, the agency name and Docket ID USCIS-2007-0038. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal Web site at <http://www.regulations.gov> under e-Docket ID number USCIS-2007-0038;

(2) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529-2140.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy,

Regulatory Coordination Division, Samantha Deshommnes, Chief, 20 Massachusetts Avenue NW., Washington, DC 20529-2140, telephone number 202-272-8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS Web site at <http://www.uscis.gov>, or call the USCIS National Customer Service Center at 800-375-5283 (TTY 800-767-1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: <http://www.regulations.gov> and enter USCIS-2007-0038 in the search box. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at <http://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of <http://www.regulations.gov>.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated,

electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a currently approved collection.

(2) *Title of the Form/Collection:* Application to Extend/Change Nonimmigrant Status.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I-539; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. This form will be used for nonimmigrants to apply for an extension of stay, for a change to another nonimmigrant classification, or for obtaining V nonimmigrant classification.

(5) *An estimate of the total number of respondents and the amount of time estimated for average respondent to respond:* Form I-539—212,609 total respondents requiring an estimated 1.88 hours per response. Supplement A—72,500 total respondents requiring an estimated .50 hours per response. Biometrics processing—212,609 total respondents requiring an estimated 1.17 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 684,708 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is \$48,896,120.

Dated: November 16, 2017.

Samantha Deshommnes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2017-25350 Filed 11-22-17; 8:45 am]

BILLING CODE 9111-97-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-6064-N-01]

Notice of Extension of Time for Completion of Required Manufacturer Corrections

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Notice of an extension of time.

SUMMARY: This notice advises the public of a request for extension of completion of a plan for notification and correction of certain manufactured homes built by Clayton Home Building Group (Clayton) that were installed with a certain Tub-Shower Faucet diverter valve manufactured by StoneCrest. The affected diverter model is N8126C. In accordance with Title 24 Code of Federal Regulations 3282.410(c), the Department has reviewed Clayton's request and has determined that Clayton has shown good cause for an extension.

DATES: October 20, 2017.

FOR FURTHER INFORMATION CONTACT:

Pamela Beck Danner, Administrator, Office of Manufactured Housing Programs, Department of Housing and Urban Development, 451 Seventh Street SW., Room 9166, Washington, DC 20410, telephone 202-708-6423 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Information Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION: The National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401-5426) (the Act) authorizes HUD to establish the Federal Manufactured Home Construction and Safety Standards (Construction and Safety Standards), codified in 24 CFR part 3280. Section 615 of the Act (42 U.S.C. 5414) requires that manufacturers of manufactured homes notify purchasers if the manufacturer determines, in good faith, that a defect exists or is likely to exist in more than one home manufactured by the manufacturer and the defect relates to the Construction and Safety Standards or constitutes an imminent safety hazard to the purchaser of the manufactured home. The notification shall also inform purchasers whether the defect is one that the manufacturer will have corrected at no cost or is one that must be corrected at the expense of the purchaser/owner. The manufacturer is responsible to notify purchasers of the defect within a reasonable time after discovering the defect.

HUD's procedural and enforcement provisions at 24 CFR part 3282, subpart I (Subpart I) implement these notification and correction requirements. If a manufacturer determines that it is responsible for providing notification under § 3282.405 and correction under § 3282.406, the manufacturer must prepare a plan for notifying purchasers of the homes containing the defect pursuant to

§§ 3282.408 and 3282.409. Notification of purchasers must be accomplished by certified mail or other more expeditious means that provides a receipt. Notification must be provided to each retailer or distributor to whom any manufactured home in the class of homes containing the defect was delivered, to the first purchaser of each manufactured home in the class of manufactured homes containing the defect, and to other persons who are registered owners of a manufactured home in the class of homes containing the defect. The manufacturer must complete the implementation of the plan for notification and correction on or before the deadline approved by the State Administrative Agency or HUD.

Under § 3282.410(c), the manufacturer may request an extension of a previously established deadline if it shows good cause for the extension and the Secretary of HUD decides that the extension is justified and not contrary to the public interest. If the request for extension is approved, § 3282.410(c) requires that HUD publish notice of the extension in the **Federal Register**.

On May 25, 2017 and revised on June 30, 2017, Clayton notified the Department that it received information that a defect was systematically introduced into homes during the manufacturing process. Specifically, the homes were installed with certain StoneCrest tub-shower diverters, which were subsequently improperly plumbed by using inadequately sized tubing. The installation, under certain operating conditions, created potential for water to leak from the shower head when the diverter was in use. On October 9, 2017, Clayton requested an extension to complete the corrections, since the population of affected homes remains extremely large and the time to make corrections is substantial. This notice advises that HUD finds that Clayton has shown good cause and that the extension is justified and not contrary to the public interest, and granted the requested extension until December 20, 2017. This extension permits Clayton to continue its good faith efforts to correct affected homes at no cost to affected homeowners.

Dated: November 17, 2017.

Teresa B. Payne,

Deputy Administrator, Office of Manufactured Housing Programs.

[FR Doc. 2017-25337 Filed 11-22-17; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R4-ES-2017-N099;
FXES11130400000EA-123-FF04EF1000]

Endangered and Threatened Wildlife and Plants; Availability of Proposed Low-Effect Habitat Conservation Plan for the Florida Scrub-Jay, Volusia, County, FL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment/information.

SUMMARY: We, the Fish and Wildlife Service (Service), have received an application for incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ACT). Orange Dale Venture, LLC, (Applicant) is requesting a 10-year ITP. We request public comment on the permit application and accompanying proposed habitat conservation plan (HCP) as well as on our preliminary determination that the plan qualifies as low-effect under the National Environmental Policy Act (NEPA). To make this determination, we used our environmental action statement and low-effect screening form, which are also available for review.

DATES: To ensure consideration, please send your written comments by December 26, 2017.

ADDRESSES: If you wish to review the application and HCP, you may request the documents by email, U.S. mail, or phone (see below). These documents are also available for public inspection by appointment during normal business hours at the office below. Send your comments or requests by any one of the following methods.

Email: northflorida@fws.gov. Use "Attn: Permit number TE39111C-0."

Fax: Field Supervisor, (904) 731-3191, "Attn: Permit number TE39111C-0."

U.S. mail: Field Supervisor, Jacksonville Ecological Services Field Office, Attn: Permit number TE39111C-0, U.S. Fish and Wildlife Service, 7915 Baymeadows Way, Suite 200, Jacksonville, FL 32256.

In-person drop-off: You may drop off information during regular business hours at the above office address.

FOR FURTHER INFORMATION CONTACT: Erin M. Gawera, telephone: (904) 731-3121; email: *erin_gawera@fws.gov*.

SUPPLEMENTARY INFORMATION:

Background

Section 9 of the Act and our implementing regulations in the Code of

Federal Regulations (CFR) at 50 CFR part 17 prohibit the “take” of fish or wildlife species listed as endangered or threatened. Take of listed fish or wildlife is defined under the Act as “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct” (16 U.S.C. 1532(19)). However, under limited circumstances, we issue permits to authorize incidental take, *i.e.*, take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.

Regulations governing incidental take permits for threatened and endangered species are at 50 CFR 17.32 and 17.22, respectively. The ESA’s take prohibitions do not apply to federally listed plants on private lands unless such take would violate State law. In addition to meeting other criteria, an incidental take permit’s proposed actions must not jeopardize the existence of federally listed fish, wildlife, or plants.

Applicant’s Proposal

Orange Dale Venture, LLC, is requesting a 10-year ITP to take approximately 5 acres (ac) of occupied scrub-jay foraging and sheltering habitat incidental to construction of an energy substation. The 161.6-ac project site is located approximately 0.5 miles northwest of the intersection of Veterans Memorial Parkway and Saxon Boulevard within Section 14, Township 18 South, Range 30 East, Volusia County, Florida. The project includes construction of a residential and commercial development, and the associated clearing, infrastructure, and landscaping. The Applicant proposes to mitigate for the take of the scrub-jay, based on Service Mitigation Guidelines, by contributing funds in the amount of \$209,220.00 to the Nature Conservancy’s Conservation Fund for the management and conservation of the Florida scrub-jay.

Our Preliminary Determination

We have determined that the Applicant’s proposal, including the proposed mitigation and minimization measures, would have minor or negligible effects on the species covered in the HCP. Therefore, we have determined that the incidental take permit for this project is “low effect” and qualifies for categorical exclusion under the National Environmental Policy Act (NEPA), as provided by 43 CFR 46.205 and 43 CFR 46.210. A low-effect HCP is one involving (1) minor or negligible effects on federally listed or candidate species and their habitats, and (2) minor or negligible effects on

other environmental values or resources.

Next Steps

We will evaluate the HCP and comments we receive to determine whether the ITP application meets the requirements of section 10(a) of the Act. We will also evaluate whether issuance of the ITP complies with section 7 of the ESA by conducting an intra-Service consultation. We will use the results of this consultation, in combination with the above findings, in our final analysis to determine whether or not to issue the ITP. If the requirements are met, we will issue the issue ITP number TE39111C–0 to the Applicant.

Public Comments

If you wish to comment on the permit application, HCP, and associated documents, you may submit comments by any one of the methods in

ADDRESSES.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10 of the ESA and NEPA regulation 40 CFR 1506.6.

Dated: October 3, 2017.

Jay B. Herrington,

Field Supervisor, Jacksonville Field Office, Southeast Region.

[FR Doc. 2017–25249 Filed 11–22–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

[GX18EE000101100]

National Geospatial Advisory Committee; Public Meeting

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of public meeting.

SUMMARY: The U.S. Geological Survey (USGS) is publishing this notice to announce that a public meeting of the National Geospatial Advisory Committee (NGAC) will take place.

DATES: The meeting will be held on Monday, December 11, 2017, from 1:00 p.m. to 4:30 p.m. (Eastern Standard Time).

ADDRESSES: The meeting will be held via web conference and teleconference.

FOR FURTHER INFORMATION CONTACT: Mr. John Mahoney, Federal Geographic Data Committee (FGDC), U.S. Geological Survey (USGS), 909 First Avenue, Suite 800, Seattle, WA 98104; by email at jmahoney@usgs.gov; or by telephone at (206) 220–4621.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act, 5 U.S.C. Appendix 2. The NGAC provides advice and recommendations related to management of Federal and national geospatial programs, the development of the NSDI, and the implementation of Office of Management and Budget Circular A–16. The NGAC reviews and comments on geospatial policy and management issues and provides a forum to convey views representative of non-federal stakeholders in the geospatial community. The NGAC is one of the primary ways that the FGDC collaborates with its broad network of partners. Additional information about the meeting is available at: www.fgdc.gov/ngac.

Agenda Topics:

- FGDC Update
- Landsat Advisory Group
- Geospatial Technology and Infrastructure
- Geospatial Platform/Data as Services
- Cultural and Historical Geospatial Resources
- NSDI Strategic Plan Framework

Meeting Accessibility/Special Accommodations: The webinar meeting is open to the public. Members of the public wishing to attend the meeting and receive webinar and call-in information should contact Ms. Lucia Foulkes by email at lfoulkes@usgs.gov to register by December 8, 2017. Individuals requiring special accommodations to access the public meeting should contact Ms. Lucia Foulkes at the email stated above or by telephone at 703–648–4142 at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Public Disclosure of Comments: Time will be allowed at the meeting for any individual or organization wishing to make oral comments. To allow for full consideration of information by the committee members at the meeting, written comments must be provided to Ms. Lucia Foulkes, Federal Geographic Data Committee (FGDC), U.S. Geological

Survey, 12201 Sunrise Valley Drive, MS-590, Reston, VA 20192; by email at lfoulkes@usgs.gov; or by telephone at 703-648-4142, by December 8, 2017. All comments received will be provided to the committee members.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 5 U.S.C. Appendix 2.

Kenneth Shaffer,

Deputy Executive Director, Federal Geographic Data Committee.

[FR Doc. 2017-25375 Filed 11-22-17; 8:45 am]

BILLING CODE 4338-11-P

DEPARTMENT OF THE INTERIOR

[18XD4523WS/DWSN00000.000000/DS61500000/DP61501]

Invasive Species Advisory Committee

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given of a meeting of the Invasive Species Advisory Committee (ISAC). The purpose of the ISAC is to provide advice to the National Invasive Species Council (NISC) on a broad array of issues related to preventing the introduction of invasive species and providing for their control and minimizing the economic, ecological, and human health impacts that invasive species cause.

DATES: The meeting will take place from 1:00 p.m. to 3:00 p.m. on Wednesday, December 6, 2017 (Eastern Standard Time).

ADDRESSES: The meeting will be held via teleconference. The toll-free conference phone number and access code can be obtained by calling (202) 208-4122, or visiting the NISC Secretariat's Web site at www.invasive-species.gov. Please note that the maximum capacity for the teleconference is 100 participants. For record keeping purposes, participants will be required to provide their name and contact information to the operator before being connected.

FOR FURTHER INFORMATION CONTACT: Ms. Kelsey Brantley, Operations and ISAC Coordinator, National Invasive Species Council Secretariat, 1849 C Street, MS

3530, NW., Washington, DC 20240; telephone (202) 208-4122; fax (202) 208-4118; email kelsey_brantley@ios.doi.gov.

SUPPLEMENTARY INFORMATION: The ISAC is established by the Secretary of the Interior, as authorized by Executive Order 13751, and is regulated by the Federal Advisory Committee Act (5 U.S.C. Appendix 2). The purpose of the ISAC is to provide advice to the NISC on a broad array of issues related to preventing the introduction of invasive species and providing for their control and minimizing the economic, ecological, and human health impacts that invasive species cause. The NISC is co-chaired by the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Commerce. The NISC provides national leadership regarding invasive species issues.

The purpose of a meeting is to convene the full ISAC to discuss and consider adoption of briefing papers generated by ISAC task teams on: (1) Federal-State Coordination, (2) Federal-Tribal Coordination; (3) Wildlife Health; (4) Advanced Biotechnology; (5) Infrastructure; and, (6) Managed Relocation.

The meeting is open to the public. Members of the public are welcome to participate by accessing the teleconference line. Up to 15 minutes will be set aside for public comment. Persons wishing to make a comment are asked to provide a written request with a description of the general subject to Ms. Brantley at the above address no later than November 27, 2017. Any member of the public may submit written information and/or comments to Ms. Brantley for distribution at the ISAC meeting.

Public Disclosure of Comments: Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: November 17, 2017.

Jamie K. Reaser,

Executive Director, National Invasive Species Council Secretariat.

[FR Doc. 2017-25383 Filed 11-22-17; 8:45 am]

BILLING CODE 4334-63P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM-2015-0068]

Outer Continental Shelf, Alaska Region, Beaufort Sea Planning Area, Liberty Development and Production Plan, Draft Environmental Impact Statement, Re-Opening of Public Comment Period; MMAA10400

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Re-opening of public comment period, Liberty Development and Production Plan Draft Environmental Impact Statement.

SUMMARY: The Bureau of Ocean Energy Management (BOEM) is re-opening the public comment period for the Draft Environmental Impact Statement (EIS) relating to the Liberty Development and Production Plan (DPP) in the Beaufort Sea Planning Area. This Draft EIS was issued on August 17, 2017. The original comment period was scheduled to last from August 17 to November 18, 2017, and included public hearings in Fairbanks, Nuiqsut, Utqiagvik, and Anchorage in early October. This **Federal Register** Notice (Notice) re-opens the comment period, to extend from the date of this Notice to December 8, 2017. Comments received between November 18 and the date of this Notice will still be accepted and considered by BOEM. After BOEM reviews comments on the Draft EIS, BOEM will prepare a Final EIS.

DATES: Comments must be received by 11:59 p.m. Eastern Time on December 8, 2017.

FOR FURTHER INFORMATION CONTACT: For information on the Liberty DPP EIS or BOEM's policies associated with this notice, please contact Lauren Boldrick, Project Manager, BOEM, Alaska OCS Region, 3801 Centerpoint Drive, Suite 500, Anchorage, AK 99503, telephone (907) 334-5227.

SUPPLEMENTARY INFORMATION: Federal, state, tribal, and local governments and/or agencies and other interested parties may submit written comments through the Federal eRulemaking Portal: <http://www.regulations.gov>. In the field titled "Enter Keyword or ID," enter [Docket No. BOEM-2015-0068], and then click "search." Follow the instructions to submit public comments and view supporting and related materials available for this notice.

Before including your address, phone number, email address or other personal identifying information in your comment, you should be aware that

your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comments to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: November 20, 2017.

Walter D. Cruickshank,

Deputy Director, Bureau of Ocean Energy Management.

[FR Doc. 2017-25433 Filed 11-22-17; 8:45 am]

BILLING CODE 4310-MR-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-472 (Fourth Review)]

Silicon Metal From China; Scheduling of a Full Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of a full review pursuant to the Tariff Act of 1930 (“the Act”) to determine whether revocation of the antidumping duty order on Silicon Metal from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission has determined to exercise its authority to extend the review period by up to 90 days.

DATES: November 6, 2017.

FOR FURTHER INFORMATION CONTACT: Lawrence Jones ((202) 205-3358), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission’s TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 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 review may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—On June 5, 2017, the Commission determined that responses to its notice of institution of the subject five-year review were such that a full review should proceed (82 FR 27525,

June 15, 2017); accordingly, a full review is being scheduled pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)). A record of the Commissioners’ votes, the Commission’s statement on adequacy, and any individual Commissioner’s statements are available from the Office of the Secretary and at the Commission’s Web site.

Participation in the review and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in this review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission’s rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission’s notice of institution of the review need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

For further information concerning the conduct of this review and rules of general application, consult the Commission’s Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission’s rules, the Secretary will make BPI gathered in this review available to authorized applicants under the APO issued in the review, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the review. A party granted access to BPI following publication of the Commission’s notice of institution of the review need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the review will be placed in the nonpublic record on February 27, 2018, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission’s rules.

Hearing.—The Commission will hold a hearing in connection with the review beginning at 9:30 a.m. on Tuesday, March 20, 2018, at the U.S. International

Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before March 12, 2018. A nonparty who has testimony that may aid the Commission’s deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should participate in a prehearing conference to be held on March 14, 2018, at the U.S. International Trade Commission Building, if deemed necessary. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission’s rules. Parties must submit any request to present a portion of their hearing testimony in camera no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party to the review may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission’s rules; the deadline for filing is March 8, 2018. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission’s rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission’s rules. The deadline for filing posthearing briefs is March 29, 2018. In addition, any person who has not entered an appearance as a party to the review may submit a written statement of information pertinent to the subject of the review on or before March 29, 2018. On April 20, 2018, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before April 24, 2018, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission’s rules. All written submissions must conform with the provisions of section 201.8 of the Commission’s rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission’s rules. The Commission’s Handbook on E-Filing, available on the Commission’s Web site at <https://edis.usitc.gov>, elaborates upon the Commission’s rules with respect to electronic filing.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission’s rules, shall not be

accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

The Commission has determined that this review is extraordinarily complicated and therefore has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017-25432 Filed 11-22-17; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[USITC SE-17-055]

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: December 1, 2017 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205-2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 701-TA-565 and 731-TA-1341 (Final)(Hardwood Plywood from China). The Commission is currently scheduled to complete and file its determinations and views of the Commission on December 20, 2017.
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: November 21, 2017.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2017-25542 Filed 11-21-17; 4:15 pm]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *In the Matter of AMOLED Display Infringing US Patents, DN 3276*; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205-2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at <https://edis.usitc.gov>, and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205-2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Mr. Seung Ki Joo, Ph.D./Professor on November 17, 2017. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States,

the sale for importation, and the sale within the United States after importation of in the matter of AMOLED display infringing U.S. patents. The complaint names as respondents Samsung Electronics Co., Ltd. of Korea and Samsung Display Co., Ltd. of Korea. The complainant requests that the Commission issue a general exclusion order or in the alternative, a limited exclusion order, and cease and desist orders.

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) Identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) Identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) Indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) Explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper

copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number ("Docket No. 3276) in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, Electronic Filing Procedures¹). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,² solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.³

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

¹ Handbook for Electronic Filing Procedures: https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.

² All contract personnel will sign appropriate nondisclosure agreements.

³ Electronic Document Information System (EDIS): <https://edis.usitc.gov>.

Issued: November 17, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–25369 Filed 11–22–17; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1084]

Certain Insulated Beverage Containers, Components, Labels, and Packaging Materials Thereof: Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on September 28, 2017, under section 337 of the Tariff Act of 1930, as amended, on behalf of YETI Coolers, LLC of Austin, Texas. An amended complaint was filed on October 27, 2017. A supplement to the amended complaint was filed on October 31, 2017. The amended complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain insulated beverage containers, components, labels, and packaging materials thereof by reason of infringement of U.S. Trademark Registration No. 5,233,441 ("the '441 trademark"); U.S. Trademark No. 4,883,074 ("the '074 trademark"); U.S. Copyright Registration No. VA 1–974–722 ("the '722 copyright"); U.S. Copyright Registration No. VA 1–974–732 ("the '732 copyright"); U.S. Copyright Registration No. VA 1–974–735 ("the '735 copyright"); U.S. Design Patent No. D752,397 ("the '397 design patent"); U.S. Design Patent No. D780,533 ("the '533 design patent"); U.S. Design Patent No. D781,146 ("the '146 design patent"); and U.S. Design Patent No. D784,775 ("the '775 design patent"). The amended complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute. The amended complaint also alleges violations of section 337 based on the importation into the United States, or in the sale of certain insulated beverage containers, components, labels, and packaging materials thereof by reason of false advertising and passing off, the threat or effect of which is to destroy or substantially injure an industry in the United States.

The complainant requests that the Commission institute an investigation and, after the investigation, issue limited exclusion order and cease and desist orders.

ADDRESSES: The amended complaint, as supplemented, except for any confidential information contained therein, is 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., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at <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>.

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2017).

Scope of Investigation: Having considered the amended complaint, the U.S. International Trade Commission, on November 15, 2017, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine:

(a) Whether there is a violation of subsection (a)(1)(A) in the importation or sale of certain insulated beverage containers, components, labels, and packaging materials thereof by reason of false advertising or passing off, the threat or effect of which is to destroy or substantially injure an industry in the United States;

(b) whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain insulated beverage containers, components, labels, and packaging materials thereof by reason of infringement of one or more of the '722

copyright; the '732 copyright; the '735 copyright; the claim of the '397 design patent; the claim of the '533 design patent; the claim of the '146 design patent; and the claim of the '775 design patent; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(c) whether there is a violation of subsection (a)(1)(C) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain insulated beverage containers, components, labels, and packaging materials thereof by reason of infringement of one or more of the '441 trademark and the '074 trademark; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: YETI Coolers, LLC, 7601 Southwest Parkway, Austin, Texas 78735

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Alibaba (China) Technology Co., Ltd., 26/F Tower One, Times Square, 1 Matheson Street, Causeway Bay, Hong Kong

Alibaba Group Holding Limited, c/o Alibaba Group Services Limited, 26/F Tower One, Times Square, 1 Matheson Street, Causeway Bay, Hong Kong

Alibaba.com Hong Kong Limited, 26/F Tower One, Times Square, 1 Matheson Street, Causeway Bay, Hong Kong

Alibaba.com Singapore E-Commerce Private Limited, 26/F Tower One, Times Square, 1 Matheson Street, Causeway Bay, Hong Kong

Bonanza.com, Inc., 3131 Western Ave., Suite 428, Seattle, WA 98121

ContextLogic, Inc. d/b/a/Wish, 1 Sansome Street, 40th Floor, San Francisco, CA 94104

Dunhuang Group, 6F Dimeng Commercial Building, No. 3-2 Hua Yuan Road, Haidian District Beijing 100191, China

Hangzhou Alibaba Advertising Co., Ltd., 26/F Tower One, Times Square, 1 Matheson Street, Causeway Bay, Hong Kong

Huizhou Dashu Trading Co., Ltd., 2001 Unit 2, #203 Building, Jinshanhu Garden, Huanhu Third Road, Huicheng District, Huizhou City, Guangdong Province, China

Huagong Trading Co., Ltd., WANGSHIZHUANG, QINGHE County, Hebei, QINGH., Hebei, China

Tan Er Pa Technology Co., Ltd., Floor 9 10, No. 29 Qianlu, Manfeng Village Shajing, Kwai Chung N.T., Hong Kong

Shenzhen Great Electronic Technology Co., Ltd., Room 3108A, Modern International., Jintian Rd, Futian District, Shenzhen., China 518000

SZ Flowerfairy Technology Ltd., 115 Room, No. 12, Building Pinshangyuan, Xixiang Street, Baoan District, Shenzhen, China

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the amended complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the amended complaint and the notice of investigation. Extensions of time for submitting responses to the amended complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the amended complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the amended complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the amended complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: November 17, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017-25360 Filed 11-22-17; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[USITC SE-17-054]

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: November 29, 2017 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205-2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 701-TA-476 and 731-tA-1179 (Review) (Multilayered Wood Flooring from China). The Commission is currently scheduled to complete and file its determinations and views of the Commission by December 13, 2017.

5. Outstanding action jackets: None. In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: November 20, 2017.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2017-25491 Filed 11-21-17; 11:15 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. CenturyLink, Inc. and Level 3 Communications, Inc.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America v. CenturyLink, Inc. and Level 3 Communications, Inc.*, Civil Action No. 17-cv-2028 (KBJ). On October 2, 2017, the United States filed a Complaint alleging that CenturyLink, Inc.'s proposed acquisition of Level 3 Communications, Inc. would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The proposed Final Judgment, filed at the same time as the Complaint,

requires the defendants to: (1) Divest to an acquirer (or acquirers) all of the assets used by Level 3 exclusively or primarily to support provision of telecommunications services to enterprise and wholesale customer locations in the Albuquerque, New Mexico, Boise, Idaho, and Tucson, Arizona Metropolitan Statistical Areas, and (2) provide to an acquirer an indefeasible right to use twenty-four strands of intercity dark fiber connecting thirty specific city pairs.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection on the Antitrust Division's Web site at <http://www.justice.gov/atr> and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, including the name of the submitter, and responses thereto, will be posted on the Antitrust Division's Web site, filed with the Court, and, under certain circumstances, published in the **Federal Register**. Comments should be directed to Scott A. Scheele, Chief, Telecommunications and Broadband Section, Antitrust Division, Department of Justice, 450 Fifth Street NW., Suite 7000, Washington, DC 20530 (telephone: 202-616-5924).

Patricia A. Brink,

Director of Civil Enforcement.

United States District Court for the District of Columbia

United States of America, United States Department of Justice, Antitrust Division, 450 Fifth Street NW., Suite 7000, Washington, DC 20530, Plaintiff v. *CenturyLink, Inc.*, 100 CenturyLink Drive, Monroe, Louisiana 71203 and *Level 3 Communications, Inc.*, 1025 Eldorado Boulevard, Broomfield, Colorado 80021 Defendants.

Civil Action No: 1:17-cv-2028

Judge: Ketanji Brown Jackson

COMPLAINT

The United States of America brings this civil action to enjoin the acquisition of Level 3 Communications, Inc. by CenturyLink, Inc. and to obtain other equitable relief.

I. NATURE OF THE ACTION

1. On October 31, 2016, CenturyLink, Inc. ("CenturyLink") and Level 3 Communications, Inc. ("Level 3") entered into an Agreement and Plan of Merger whereby CenturyLink would acquire Level 3. CenturyLink's proposed

acquisition of Level 3 would consolidate two of the largest wireline telecommunications services providers in the United States.

2. CenturyLink and Level 3 compete to provide fiber-optic-based connectivity and telecommunications services to enterprise and wholesale customers. Enterprise customers (including all sizes of businesses and institutions, such as community colleges, hospitals, and government agencies) purchase high quality fiber-optic-based connectivity and telecommunications services from CenturyLink and Level 3 for their own telecommunications services needs. Wholesale customers (*i.e.*, telecommunications carriers seeking to provide telecommunications services to customer locations in areas where they do not have their own wireline infrastructure) purchase local network and building-level fiber connectivity from CenturyLink and Level 3 in order to provide telecommunications services to their end-user customers.

3. In three Metropolitan Statistical Areas ("MSAs")¹—Albuquerque, New Mexico; Boise, Idaho;² and Tucson, Arizona—CenturyLink and Level 3 have two of the three most extensive fiber-based metropolitan area networks. Without significant competitors to rival their networks' scale in each of these three MSAs, CenturyLink and Level 3 represent each other's closest competitor for many enterprise and wholesale customers in these MSAs, including, for example, enterprise customers with locations spread throughout an MSA. In many buildings within each of these three MSAs, CenturyLink and Level 3 are the only two providers, or two of only three providers, that own a direct fiber connection to the building. In a substantial proportion of buildings in these MSAs, though CenturyLink and Level 3 may not be connected to these buildings, they are the only two providers with metropolitan area network fiber located close enough to connect economically, making CenturyLink and Level 3 the best options for customers in those buildings. The consolidation of these

¹ An MSA is a geographical region defined by the Office of Management and Budget for use by federal statistical agencies, such as the Census Bureau. It is based on the concept of a core area with a large concentrated population, plus adjacent communities having close economic and social ties to the core. For the purposes of this Complaint, it includes the dense central business districts in Albuquerque, Tucson, and Boise as well as the adjacent, connected communities.

² The full name of this MSA as defined by the Office of Management and Budget is Boise City-Nampa, Idaho.

two competitors thus would likely substantially lessen competition for the provision of fiber-optic-based connectivity and telecommunications services in these three MSAs in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

4. CenturyLink and Level 3 also own substantial amounts of dark fiber connecting pairs of cities ("Intercity Dark Fiber"). Dark fiber is fiber-optic cable that has been installed, typically in conduit in the ground, but has not been "lit" by attaching optical electronic equipment at each end. Fiber that has had such equipment attached is called "lit" fiber because the equipment sends data through the fiber in the form of light waves. Such lit fiber can rapidly transmit thousands of terabits of data. Owners of Intercity Dark Fiber may "light" the fiber themselves and then use the lit fiber to sell telecommunications services, including data transport, to customers. But only a small handful of Intercity Dark Fiber owners, including CenturyLink and Level 3, also sell the fiber "dark" and permit customers to add their own electronic equipment and control their own data transport. Between some city pairs, CenturyLink and Level 3 are the only two Intercity Dark Fiber providers. Between some other city pairs, CenturyLink and Level 3 are two of only three Intercity Dark Fiber providers.

5. Dark fiber is a crucial input for large, sophisticated customers that need to move substantial amounts of data between specific cities. These customers have specialized data transport needs, including capacity, scalability, flexibility, and security, that can be fulfilled only by Intercity Dark Fiber. CenturyLink and Level 3 compete to sell Intercity Dark Fiber to these customers, and this competition has led to lower prices for and increased availability of Intercity Dark Fiber. The consolidation of these two competitors would likely substantially lessen competition for the sale of Intercity Dark Fiber for thirty city pairs in the United States in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

II. DEFENDANTS AND THE TRANSACTION

6. CenturyLink is a Louisiana corporation headquartered in Monroe, Louisiana. It is the third largest wireline telecommunications provider in the United States and is the Incumbent Local Exchange Carrier ("ILEC")³ in

³ An incumbent local exchange carrier (ILEC) is the telephone company that was the sole provider of local exchange service (local phone service) in a given local area prior to passage of the 1996

portions of 37 states. CenturyLink owns one of the most extensive physical fiber networks in the United States, including metropolitan area network components and direct fiber connections to numerous commercial buildings throughout the United States, particularly where it serves as the ILEC, as well as considerable intercity fiber infrastructure. Over the past ten years, CenturyLink has grown by acquiring a number of other large telecommunications providers, including Embarq Corporation in 2009 and Qwest Communications, Inc. in 2011. As of December 31, 2016, CenturyLink owned and operated a 360,000 route-mile global network, including a 265,000 route-mile U.S. fiber network, and generated 2016 operating revenues of \$17.47 billion.

7. Level 3 is a Delaware corporation headquartered in Broomfield, Colorado. It is one of the largest wireline telecommunications companies in the United States and operates as one of the largest Competitive Local Exchange Carriers (“CLEC”), owning significant local network assets comprised of metropolitan area network components and direct fiber connections to numerous commercial buildings throughout the United States, including within portions of CenturyLink’s ILEC territory. Level 3 operates one of the most extensive physical fiber networks in the United States, including sizeable intercity fiber infrastructure. Level 3 has made a number of significant acquisitions in the past ten years, including Global Crossing Limited in 2011 and tw telecom inc. in 2014. Level 3 owns and operates a 200,000 route-mile global fiber network and generated \$8.172 billion of operating revenues in 2016.

8. On October 31, 2016, CenturyLink and Level 3 entered into an Agreement and Plan of Merger whereby CenturyLink will acquire Level 3 for approximately \$34 billion.

III. JURISDICTION AND VENUE

9. The United States brings this action under the direction of the Attorney General and pursuant to Section 15 of the Clayton Act, as amended, 15 U.S.C. 25, to prevent and restrain CenturyLink and Level 3 from violating Section 7 of the Clayton Act, 15 U.S.C. 18.

10. CenturyLink and Level 3 are engaged in, and their activities substantially affect, interstate commerce. CenturyLink and Level 3 sell wireline telecommunications goods and

services throughout the United States. The Court has subject-matter jurisdiction over this action and these defendants pursuant to Section 15 of the Clayton Act, as amended, 15 U.S.C. 25, and 28 U.S.C. 1331, 1337(a), and 1345.

11. Defendants CenturyLink and Level 3 transact business in the District of Columbia and have consented to venue and personal jurisdiction in this District. Venue is proper in this District under Section 12 of the Clayton Act, 15 U.S.C. 22, and 28 U.S.C. 1391(b)(1) and (c).

IV. BACKGROUND

12. Wireline telecommunications infrastructure is critical in transporting the data that individuals, businesses, and other entities transmit. Among the key components of this infrastructure are: the fiber strands connecting an individual building to a metropolitan area network; the fiber strands and related equipment comprising a metropolitan area network that serve an entire city or MSA; and the intercity fiber strands connecting cities to one another.

13. Fiber strands connecting an individual building to the metropolitan area network serving an entire MSA are often referred to as “last-mile” connections. Without a last-mile fiber connection to the building, customers cannot send data to or receive data from any point outside of the building. And without the metropolitan area network to which those last-mile building fibers connect, customers cannot communicate with other buildings in the same MSA or reach any points beyond.

14. These fiber building connections and fiber-based metropolitan area networks carry critical telecommunications services for enterprise customers. They also provide a link over which wholesale providers—who sell services to end users in buildings to which the wholesale provider does not own direct fiber connections—can serve their own customers.

15. Each ILEC has its own territory, which can include entire MSAs and/or portions of MSAs. The ILEC typically has the largest number of fiber building connections in its territory. As such, CenturyLink typically has the largest number of fiber connections to the buildings where it is the ILEC, serving the majority of buildings that require high-bandwidth, high-reliability telecommunications services. CLECs like Level 3 have built fiber connections to buildings in CenturyLink’s and other ILEC’s territories, giving some buildings additional fiber connections. More

recently, other entities like cable companies have begun investing in fiber connections to buildings in certain MSAs, though, like the CLECs, they typically have nowhere near the scale of the ILEC.

16. In the MSAs of Albuquerque, New Mexico; Boise, Idaho; and Tucson, Arizona, CenturyLink is the ILEC and owns the largest and most extensive fiber-based metropolitan area network, and Level 3 owns one of the top three largest fiber-based networks in all three MSAs. In each of these MSAs, CenturyLink owns fiber connections to more than a thousand buildings, while Level 3 owns connections to hundreds of buildings. In many of these buildings, CenturyLink and Level 3 also control the only last-mile fiber connections. Moreover, they are two of only three significant providers with metropolitan area network fiber nearby.

17. Intercity fiber connects a city’s metropolitan area network to other cities’ metropolitan area networks. Without fiber connecting cities’ metropolitan area networks, each city would be an island, with no way for data sent by or destined for customers in one city to reach to or from any other city. This intercity fiber linking city pairs is distinct from metropolitan area network fiber that links locations within a city but does not connect outside—the only connection between a metropolitan area network and any point beyond is intercity fiber. CenturyLink and Level 3 are two of only a handful of companies with robust nationwide intercity fiber networks.

18. Companies can light intercity fiber to send data across long distances between cities. Intercity Dark Fiber providers can light the fiber themselves, supplying and controlling the optical electronic equipment, and then sell lit services to customers. Intercity Dark Fiber providers can also sell the fiber dark to large, sophisticated customers, in which case the customer purchases the right to control the underlying fiber and then arranges for placement of optical electronic equipment to light the fiber and manages its own traffic on the fiber.

19. Intercity Dark Fiber can provide customers additional data capacity, faster speeds, and more robust security and control over their data networks. Intercity Dark Fiber sales are typically structured as something similar to a long-term lease, known in the industry as an Indefeasible Right of Use (“IRU”),⁴

⁴ The FCC defines an IRU, in part, as an indefeasible long-term leasehold interest for a minimum total duration of ten years that gives the

Telecommunications Act, which allowed for competitive local exchange carriers (CLECs) to compete for this local service.

with an up-front payment and some recurring fees for maintenance of the fiber. Only a few companies in the United States sell Intercity Dark Fiber. Most Intercity Dark Fiber providers also sell lit services, sometimes to the same customer.

V. RELEVANT MARKETS

A. Fiber-Based Enterprise and Wholesale Telecommunications Services Providing Local Connectivity to Customer Premises

20. Fiber-based enterprise and wholesale telecommunications services providing local connectivity to customer premises constitutes a relevant market and line of commerce under Section 7 of the Clayton Act, 15 U.S.C. 18.

21. Customers require this product to deliver high-bandwidth, high-reliability telecommunications services. Customers who purchase fiber-based telecommunications services providing connectivity to their premises will not turn to other connectivity technologies (such as hybrid fiber-coax, copper, or fixed or mobile wireless) in sufficient numbers to make a small but significant increase in price of fiber-based telecommunications services unprofitable for a provider of these fiber-based telecommunications services.

22. In some instances, the relevant telecommunications services to individual buildings are priced and sold separately. In other instances, including where MSA-wide price lists are used and where customers have multiple locations throughout an MSA, sales and pricing may be determined at the level of the MSA. Customers with multiple building locations spread throughout an MSA may demand integrated telecommunications services to all locations. Providers with a broad fiber presence in an MSA may be best suited to supply such customers. For such situations, the nature of competition may be best assessed at the MSA level. The geographic markets relevant to these services are no narrower than each individual building and no broader than each MSA.

23. The relevant geographic markets and sections of the country under Section 7 of the Clayton Act, 15 U.S.C. 18, within which to assess the competitive impact of a combination of CenturyLink and Level 3 are the MSAs of Albuquerque, New Mexico; Boise,

Idaho; and Tucson, Arizona (collectively, the “Three MSAs”).

B. Intercity Dark Fiber

24. Intercity Dark Fiber constitutes a relevant product market and line of commerce under Section 7 of the Clayton Act, 15 U.S.C. 18.

25. Level 3 and CenturyLink utilize their intercity fiber to sell both lit services and Intercity Dark Fiber. Lit services generally are sold for a certain capacity and paid for on a monthly basis. The provider serves the customer using the provider’s optical electronic equipment, and the provider manages the traffic on the fiber. In contrast, dark fiber is generally sold through IRUs so that the customer can arrange for its own equipment to be placed and manage its own traffic on the fiber. Customers who buy Intercity Dark Fiber, including webscale companies⁵ and financial institutions, require the properties of dark fiber for scalability, capacity, flexibility, and security. Lit services sold by telecommunications providers cannot match these qualities provided by Intercity Dark Fiber and are generally much more costly than Intercity Dark Fiber for these customers’ purposes. Customers who purchase Intercity Dark Fiber will not turn to an alternate service like lit services in the event of a small but significant increase in the price of Intercity Dark Fiber.

26. The geographic markets relevant to this product are specific city pairs in the United States. Intercity Dark Fiber customers generally need to transport data between specific sources and destinations (for example, data centers and headquarters), and accordingly require a fiber connection between cities close to those locations. Customers who face a small but significant increase in price for Intercity Dark Fiber between a specific city pair typically will not substitute different city pairs in response.

27. Further, the directness of the route between cities is critical for purposes of reducing latency and expense. Therefore, Intercity Dark Fiber customers generally will consider only certain routes between a city pair to fulfill their needs. The more circuitous a route, the longer data needs to travel, and the more latency is introduced into the transmission. Longer routes are also more costly to operate as more amplifier and regeneration equipment must be added to the fiber to ensure proper

transmission of the signal. Accordingly, only certain routes between a city pair are viable substitutes for Intercity Dark Fiber customers.

28. The relevant geographic markets and sections of the country under Section 7 of the Clayton Act, 15 U.S.C. 18, within which to assess the competitive impact of a combination of CenturyLink and Level 3 (collectively, the “Thirty City Pairs”) are:

1. Atlanta-Nashville
2. Birmingham-Billingsley
3. Charlotte-Atlanta
4. Cleveland-Buffalo
5. Dallas-Memphis
6. Denver-Dallas
7. Denver-Kansas City
8. El Paso-San Antonio
9. Houston-New Orleans
10. Indianapolis-Cincinnati
11. Kansas City-St. Louis
12. Los Angeles-Las Vegas
13. Memphis-Nashville
14. Miami-Jacksonville
15. Nashville-Indianapolis
16. Orlando-Daytona Beach
17. Phoenix-El Paso
18. Portland-Salt Lake City
19. Raleigh-Charlotte
20. Richmond-Raleigh
21. Sacramento-Salt Lake City
22. Sacramento-San Francisco
23. Salt Lake City-Denver
24. San Diego-Phoenix
25. San Francisco-Los Angeles
26. Tallahassee-Jacksonville
27. Tallahassee-Tampa
28. Tampa-Miami
29. Tampa-Orlando
30. Washington, DC-Richmond

VI. ANTICOMPETITIVE EFFECTS

29. The transaction likely would substantially lessen competition in the markets of enterprise and wholesale fiber-based local connectivity telecommunications services in the Three MSAs.

30. Enterprise and wholesale customers in the Three MSAs who depend on fiber-based local connectivity telecommunications services provided by the defendants would be harmed as a result of CenturyLink’s acquisition of Level 3. In particular, in addition to wholesale customers, in each of the Three MSAs there are a substantial number of enterprise customers with significant high-bandwidth, high-reliability telecommunications services needs. While some of these customers have a single location, many others have multiple locations throughout the metropolitan area and require telecommunications providers who can offer fiber-based connections to all of their locations. CenturyLink and Level 3

grantee the right to access and exclusively use specified strands of fiber or allocated bandwidth to provide a service as determined by the grantee. An IRU confers on the grantee substantially all of the risks and rewards of ownership.

⁵ Webscale companies are those primarily engaged in the business of providing large amounts of data to end users through web-based services; they require facilities and infrastructure to create, store, and then transport that data across long distances.

use their metropolitan area networks to compete for customers at locations in the Three MSAs where the two companies already have connected fiber, and to compete for opportunities at new locations throughout the MSAs where CenturyLink and Level 3 could economically add lines to connect to new locations.

31. In each of the Three MSAs, CenturyLink is the largest provider of fiber connectivity and has fiber connections to over a thousand buildings. Level 3 has fiber connections to several hundred buildings in each of the Three MSAs, making it the second largest provider of fiber connectivity to buildings in Albuquerque and Tucson, and one of the top three largest in Boise. In many buildings in the Three MSAs, CenturyLink and Level 3 control the only last-mile fiber connections. Moreover, they are two of only three significant providers with fiber connections to, or metropolitan area network fiber nearby, buildings in the Three MSAs, representing a customer's best choices for this product in many instances in the Three MSAs. Competitor metropolitan area networks in these Three MSAs that have smaller, less robust networks are not close substitutes for CenturyLink's and Level 3's networks.

32. CenturyLink and Level 3 compete directly against one another to provide fiber-based enterprise and wholesale local connectivity telecommunications services to a wide variety of customers in the Three MSAs, including, but not limited to, small- to medium-sized enterprise customers with one or multiple locations, large multi-regional enterprise customers with branch locations in the Three MSAs, and wholesale customers who resell to all types of end users. Customers have benefitted from this competition, including by receiving lower prices and higher quality services. The acquisition of Level 3 by CenturyLink would represent a loss of this competition.

33. This loss of competition likely will result in increased prices for enterprise and wholesale customers purchasing fiber-based local connectivity telecommunications services in the Three MSAs. In each of the Three MSAs, CenturyLink and Level 3 operate in a highly concentrated market, representing for hundreds of buildings two of only three, and in some cases the only two, providers with fiber connectivity to or near customer premises. While currently these customers can turn to Level 3 if CenturyLink raises prices, the loss of Level 3 as a competitor would leave some customers with only one

alternative and many others with no competitive choice at all. Post-merger, these highly concentrated markets will become significantly more concentrated, with the parties' combined share of all last-mile fiber building connections at approximately 90% in Albuquerque, New Mexico; 80% in Tucson, Arizona; and 70% in Boise, Idaho. Without Level 3 as a competitive constraint in these highly concentrated markets, the merged firm will have the incentive and ability to increase prices above competitive levels and reduce quality of service.

34. The transaction likely would also substantially lessen competition for Intercity Dark Fiber for the Thirty City Pairs. Webscale and financial customers who currently rely on Level 3 and CenturyLink to compete for Intercity Dark Fiber sales would be harmed by this transaction. Not all telecommunications providers sell Intercity Dark Fiber. The ability to sell Intercity Dark Fiber requires that a provider control enough fiber for its own operations and have enough remaining to sell the amount requested by the customer, on the route specified by the customer, and for the length of time required by the customer. CenturyLink and Level 3 are two of only a few providers, and in most cases the only two providers, who have this ability and offer to sell Intercity Dark Fiber between each of the Thirty City Pairs. Webscale company customers typically require dark fiber across multiple intercity routes, and they prefer dark fiber providers who can provide them with contiguous routes, including those spanning from coast to coast. CenturyLink and Level 3 are two of only three Intercity Dark Fiber providers with at least one contiguous route from the west coast to the east coast.

35. For the Thirty City Pairs, where competition is so highly concentrated, the acquisition of Level 3 by CenturyLink would represent a loss of crucial competition for customers who require Intercity Dark Fiber. The competition between CenturyLink and Level 3 for Intercity Dark Fiber between these city pairs has led to decreased prices and increased availability, with each defendant being more willing to lower price and offer more Intercity Dark Fiber, or offer Intercity Dark Fiber at all, in response to competitive pressure from the other. Currently, customers can turn to CenturyLink for Intercity Dark Fiber for any of the Thirty City Pairs if Level 3 raises price or is unwilling to sell Intercity Dark Fiber, but the loss of CenturyLink as a competitor would leave customers with

no such option, providing the merged firm the incentive and ability to raise prices above competitive levels.

VII. ABSENCE OF COUNTERVAILING FACTORS

36. Entry of new competitors in the relevant markets is unlikely to prevent or remedy the proposed merger's anticompetitive effects.

37. The proposed merger would be unlikely to generate verifiable, merger-specific efficiencies sufficient to reverse or outweigh the anticompetitive effects that are likely to occur.

VIII. VIOLATIONS ALLEGED

38. The acquisition of Level 3 by CenturyLink likely would substantially lessen competition in each of the relevant markets in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

39. Unless enjoined, the acquisition will likely have the following anticompetitive effects, among others:

- a. competition in the market for fiber-based enterprise and wholesale telecommunications services providing local connectivity to customer premises in the Three MSAs—Albuquerque, New Mexico; Boise, Idaho; and Tucson, Arizona—would be substantially lessened;
- b. prices for fiber-based enterprise and wholesale telecommunications services providing local connectivity to customer premises in the Three MSAs would increase and quality of service would decline;
- c. competition in the markets for Intercity Dark Fiber between each of the Thirty City Pairs would be substantially lessened;
- d. prices for Intercity Dark Fiber between each of the Thirty City Pairs would increase; and
- e. availability of Intercity Dark Fiber between each of the Thirty City Pairs would decrease.

IX. REQUESTED RELIEF

40. The United States requests that this Court:

- a. adjudge and decree CenturyLink's acquisition of Level 3 to violate Section 7 of the Clayton Act, 15 U.S.C. 18;
- b. permanently enjoin and restrain CenturyLink and Level 3 from carrying out the Agreement and Plan of Merger dated October 31, 2016, or from entering into or carrying out any contract, agreement, plan, or understanding, by which CenturyLink would combine with or acquire Level 3, its capital stock, or any of its assets;
- c. award the United States its costs for this action; and
- d. award the United States such other and further relief as the Court deems just and proper.

Dated: October 2, 2017
Respectfully submitted,
FOR PLAINTIFF UNITED STATES:

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United States District Court for the District of Columbia

United States of America, Plaintiff, v.
Centurylink, Inc. and Level 3
Communications, Inc., Defendants.
Civil Action No: 1:17-cv-2028
Judge: Ketanji Brown Jackson

[PROPOSED] FINAL JUDGMENT

WHEREAS, Plaintiff, United States of America, filed its Complaint on October 2, 2017, the United States and defendants, CenturyLink, Inc. and Level 3 Communications, Inc., by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or

admission by any party regarding any issue of fact or law;

AND WHEREAS, defendants agree to be bound by the provisions of this Final Judgment pending its approval by the Court;

AND WHEREAS, the essence of this Final Judgment is the prompt and certain divestiture of certain rights or assets by the defendants to assure that competition is not substantially lessened;

AND WHEREAS, the United States requires defendants to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

AND WHEREAS, defendants have represented to the United States that the divestitures required below can and will be made and that defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

NOW THEREFORE, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is ORDERED, ADJUDGED, AND DECREED:

I. JURISDICTION

This Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states a claim upon which relief may be granted against defendants under Section 7 of the Clayton Act, as amended (15 U.S.C. 18).

II. DEFINITIONS

As used in this Final Judgment:

A. “Acquirer” or “Acquirers” means the entity or entities to whom defendants divest the Divestiture Assets.

B. “CenturyLink” means defendant CenturyLink, Inc., a Louisiana corporation with its headquarters in Monroe, Louisiana, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

C. “Level 3” means defendant Level 3 Communications, Inc., a Delaware corporation with its headquarters in Broomfield, Colorado, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

D. “Customer Premises Equipment” means equipment located on the customer premises side of the demarcation point with the telecommunications service provider and used to serve one customer at the location.

E. “Dark Fiber” means fiber optic strands provided without electronic or optronic equipment.

F. “Divestiture Assets” means the MSA Divestiture Assets and the Intercity Dark Fiber Assets.

G. “Divestiture MSA” means, separately, the MSAs of (1) Albuquerque, New Mexico; (2) Boise City-Nampa, Idaho; and (3) Tucson, Arizona.

H. “Gateway Location,” means a facility in or near an MSA where intercity fiber terminates and connects with a Metropolitan Area Network and/or other intercity fiber.

I. “Intercity Dark Fiber Assets” means IRUs for 24 strands of Dark Fiber in the same cable, if available, or if not available in the same cable, then in the same duct bank, on the Intercity Routes and any Dark Fiber necessary to connect any Intercity Route with another Intercity Route that terminates at a different Gateway Location in the same MSA. The term “Intercity Dark Fiber Assets” shall be construed as broadly as necessary to accomplish the purposes of this Final Judgment and any IRU shall provide the following:

(1) A term of twenty-five (25) years, with two options to extend for two (2) additional five (5) year terms (for a total of ten (10) years), exercisable at the Acquirer’s sole discretion at any time during the initial 25-year term so long as written notice is provided to the defendants at least ninety (90) days prior to the expiration of the IRU term, and, for each five-year renewal term, at a price not to exceed 20% of the fee initially paid by the Acquirer for the Intercity Dark Fiber Assets;

(2) Subject to the approval of the United States, in its sole discretion, customary terms and conditions, including terms regarding respective operations and maintenance rights and obligations; fiber quality, testing, and technical performance; access; and cooperation;

(3) The right to assign the IRU, in whole or in part, without the consent of defendants; and

(4) All additional rights defendants have that are necessary (including, as needed, rights to access and occupy space in defendants’ facilities) to enable the Acquirer or its assignee to provide telecommunications services using the Intercity Dark Fiber Assets.

J. “Intercity Routes” means Dark Fiber connecting the endpoints specified in Appendix B.

K. “IRU” means indefeasible right of use, a long-term leasehold interest that gives the holder the exclusive right to use specified fiber optic strands in a

telecommunications facility for a stated term.

L. “*Lateral Connection*” means fiber optic strands, from the demarcation point in a building, including any equipment at the demarcation point necessary to connect the fiber to Customer Premises Equipment, to the point at which such fiber optic strands are spliced with other fiber optic strands that serve multiple buildings, and any existing related duct, conduit, or other containing or support structure.

M. “*Majority MSA Customers*” means MSA Customers for which, as of August 2017, Level 3’s monthly recurring revenues were greater in the Divestiture MSAs than outside the Divestiture MSAs.

N. “*Metropolitan Area Network*” means fiber optic strands that are used to connect Lateral Connections to one another and to Gateway Locations and any existing related duct, conduit or other containing or support structure.

O. “*MSA*” means Metropolitan Statistical Area, as defined by the Office of Management and Budget.

P. “*MSA Customers*” means customers who purchase telecommunications services from Level 3 at a location within any of the Divestiture MSAs, but shall not include the customers listed in Appendix A.

Q. “*MSA Divestiture Assets*” means all Level 3 assets, tangible and intangible, used exclusively or primarily to support Level 3’s provision of telecommunications services to customer locations in the Divestiture MSAs, including, but not limited to, Lateral Connections, Metropolitan Area Network; ownership and access rights to all ducts, conduit, and other containing or support structure used by Level 3 to operate or augment such Lateral Connections and Metropolitan Area Network; and all switching, routing, amplification, co-location, or other telecommunications equipment used in or associated with those networks in each Divestiture MSA, up to Level 3’s Gateway Location(s) in each Divestiture MSA. The MSA Divestiture Assets shall also include other assets used by Level 3 for its provision of

telecommunications services to customer locations in each Divestiture MSA, including, but not limited to, all licenses, permits and authorizations related to the MSA Divestiture Assets issued by any governmental organization to the extent that such licenses, permits and authorizations are transferrable and such transfer would not prevent Level 3 from providing telecommunications services in the three Divestiture MSAs; all contracts (except as otherwise excluded by the

terms of this Final Judgment), teaming arrangements, agreements, leases, commitments, certifications, and understandings, including supply agreements; all MSA Customer lists (including the name of each MSA Customer and each Majority MSA Customer, the address of each MSA Customer location within the Divestiture MSAs, and the address of each Majority MSA Customer location within the Divestiture MSAs and outside the Divestiture MSAs); all repair and performance records relating to the MSA Divestiture Assets; and all other records relating to the MSA Divestiture Assets reasonably required to permit the Acquirer to conduct a thorough due diligence review of and to operate the MSA Divestiture Assets. The MSA Divestiture Assets shall not include assets, wherever located, used exclusively or primarily in or in support of Level 3’s provision of telecommunications services outside the Divestiture MSAs, including the provision of telecommunications services between MSAs.

The term “MSA Divestiture Assets” shall be construed as broadly as necessary to accomplish the purposes of this Final Judgment and is subject to the following:

(1) The MSA Divestiture Assets shall not include Customer Premises Equipment in a location in a Divestiture MSA currently owned by Level 3 unless and until the customer chooses the Acquirer as its supplier pursuant to Section IV(K) for that location; and

(2) Level 3’s contracts to provide telecommunications services to customers are not included as MSA Divestiture Assets, but are subject to the process specified in Sections IV(K) and IV(L) of this Final Judgment.

III. APPLICABILITY

A. This Final Judgment applies to CenturyLink and Level 3, as defined above, and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

B. If, prior to complying with Section IV, Section V, and Section VI of this Final Judgment, defendants sell or otherwise dispose of all or substantially all of their assets or of lesser business units that include the Divestiture Assets, they shall require the purchaser to be bound by the provisions of this Final Judgment. Defendants need not obtain such an agreement from the acquirers of the assets divested pursuant to this Final Judgment.

IV. DIVESTITURE OF MSA DIVESTITURE ASSETS

A. Defendants are ordered and directed, within 120 calendar days after the filing of the Complaint in this matter, or five (5) calendar days after notice of the entry of this Final Judgment by the Court, whichever is later, to divest the MSA Divestiture Assets in a manner consistent with this Final Judgment to an Acquirer or Acquirers in each Divestiture MSA and on terms acceptable to the United States, in its sole discretion. The United States, in its sole discretion, may agree to one or more extensions of this time period not to exceed sixty (60) calendar days in total, and shall notify the Court in such circumstances. If approval or consent from any government unit is necessary with respect to divestiture of the MSA Divestiture Assets by defendants or the Divestiture Trustee and if applications or requests for approval or consent have been filed with the appropriate governmental unit within five (5) calendar days after the United States provides written notice pursuant to Section VII(E) that it does not object to the proposed Acquirer, but an order or other dispositive action on such applications has not been issued before the end of the period permitted for divestiture, the period shall be extended with respect to divestiture of those MSA Divestiture Assets for which governmental approval or consent has not been issued until five (5) calendar days after such approval or consent is received. Defendants agree to use their best efforts to divest the MSA Divestiture Assets and to seek all necessary regulatory or other approvals or consents necessary for such divestitures as expeditiously as possible.

B. In accomplishing the divestitures ordered by this Final Judgment, defendants promptly shall make known, by usual and customary means, the availability of the entire MSA Divestiture Assets. Defendants shall inform any person making an inquiry regarding a possible purchase of the MSA Divestiture Assets that they are being divested pursuant to this Final Judgment and provide that person with a copy of this Final Judgment. Defendants shall offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information and documents relating to the MSA Divestiture Assets customarily provided in a due diligence process except such information or documents subject to the attorney-client privilege or work-product doctrine. Defendants shall make available such

information to the United States at the same time that such information is made available to any other person.

C. With respect to each Divestiture MSA, defendants shall provide the Acquirer of MSA Divestiture Assets and the United States information relating to the personnel whose primary responsibilities relate to the operation of any MSA Divestiture Asset to enable the Acquirer to make offers of employment. Defendants will not interfere with any negotiations by the Acquirer to employ such personnel.

D. Defendants shall permit prospective Acquirers of the MSA Divestiture Assets to have reasonable access to personnel and to make inspections of the physical facilities of the MSA Divestiture Assets; access to any and all environmental, zoning, title, right-of-way, and other permit documents and information; and access to any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

E. Defendants shall warrant to any Acquirer(s) that the MSA Divestiture Assets will be operational on the date of sale.

F. Defendants shall not take any action that will impede in any way the permitting, operation, or divestiture of the MSA Divestiture Assets.

G. Subject to approval by the United States, defendants may enter into a negotiated contract with each Acquirer of MSA Divestiture Assets for a period of two (2) years from the closing date of the divestiture of the MSA Divestiture Assets, under which the Acquirer would provide to defendants all Lateral Connections and associated Metropolitan Area Network needed to support Level 3 customers in the applicable Divestiture MSA that choose to remain customers of defendants.

H. At the option of the Acquirer(s), defendants shall enter into a Transition Services Agreement for any services that are reasonably necessary for the Acquirer(s) to maintain, operate, provision, monitor, or otherwise support the MSA Divestiture Assets, including any required back office and information technology services, for a period of up to twelve (12) months. The United States, in its sole discretion, may approve one or more extensions of this agreement for a total of up to an additional twelve (12) months. Defendants shall perform all duties and provide all services required of defendants under the Transition Services Agreement. The terms and conditions of any contractual arrangement meant to satisfy this provision must be reasonably related to

market conditions. Any amendments, modifications or extensions of the Transition Services Agreement maybe entered into only with the approval of the United States, in its sole discretion.

I. Defendants shall use their best efforts to obtain from any third parties that provide Level 3, on a leased or IRU basis, Lateral Connections and Metropolitan Area Network in the Divestiture MSAs any consent necessary to transfer, assign, or sublease to the Acquirer the contract(s) for such Lateral Connections or Metropolitan Area Network to the extent related to the MSA Divestiture Assets and will effectuate the transfer, assignment, or sublease of such contract(s) to the Acquirer. The Acquirer and defendants may enter into a commercial services agreement to replace the service provided by any Level 3 Lateral Connections and Metropolitan Area Network in the Divestiture MSAs currently provided to Level 3 on a leased or IRU basis (1) if, because of withheld consent, the parties are unable to transfer, assign, or sublease to the Acquirer any contract(s) for such Lateral Connections or Metropolitan Area Network in the Divestiture MSAs currently provided to Level 3 on a leased or IRU basis; or (2) at the option of the Acquirer and subject to approval by the United States, in its sole discretion. Defendants shall use their best efforts to obtain from any third parties that provide Level 3 rights of way, access rights, or any other rights to operate, expand, or extend Lateral Connections or Metropolitan Area Network in the Divestiture MSAs any consent necessary to transfer such rights to the Acquirer(s).

J. Defendants shall warrant to the Acquirer(s) that they are not aware of any material defects in the environmental, zoning, title, right-of-way, or other permits pertaining to the operation of each asset, and that following the sale of the MSA Divestiture Assets, defendants will not undertake, directly or indirectly, any challenges to the environmental, zoning, title, right-of-way, or other permits relating to the operation of the MSA Divestiture Assets.

K. For each Divestiture MSA, beginning on the closing date of the sale of the MSA Divestiture Assets and continuing for a period of the lesser of two (2) years from the closing date of the sale or the expiration of an MSA Customer's contract, provided the expiration is at least thirty (30) days after the closing date of the sale, defendants shall

(1) release the MSA Customers from their contractual obligations for any

otherwise applicable termination fees for telecommunications services provided by Level 3 at locations within the applicable Divestiture MSA, in order to enable any MSA Customers, without penalty or delay, to elect to use the Acquirer for provision of such telecommunications services, and

(2) for any Majority MSA Customers, defendants shall release such customers from their contractual obligations for all Level 3 services for any otherwise applicable termination fees charged by defendants, at all locations serviced by Level 3, even if located outside the applicable Divestiture MSA, provided that defendants and Acquirer shall each be required to pay half of any third-party fees associated with the termination of delivery of telecommunications services to each Majority MSA Customer at each terminated location outside the Divestiture MSAs, in order to enable these customers, without penalty imposed by defendants or delay, to elect to use the Acquirer for the provision of such telecommunications services.

L. For a period of two (2) years following the entry of this Final Judgment, defendants shall not initiate customer-specific communications to solicit any MSA Customer or Majority MSA Customer to provide any telecommunications services to locations for which such customers have elected to use an Acquirer as its provider of telecommunications services pursuant to the process specified in Section IV(K) of this Final Judgment; provided however, that defendants may (1) respond to inquiries and enter into negotiations to provide service at these locations or other locations at the request of the customer and (2) except for any location at which the MSA Customer has elected to use an Acquirer as its provider of telecommunications services pursuant to the process specified in Section IV(K), continue to solicit business opportunities from any MSA Customer that was prior to the entry of this Final Judgment a customer of CenturyLink in the Divestiture MSA.

M. Within fifteen (15) business days of the date of the sale of any MSA Divestiture Assets to an Acquirer, defendants shall communicate, in a form approved by the United States in its sole discretion, to all MSA Customers notifying the recipients of the divestiture and providing a copy of this Final Judgment. Defendants shall provide the United States a copy of this notification at least ten (10) business days before it is sent. The notification shall specifically advise customers of the rights provided under Sections IV(K) and IV(L) of this Final Judgment. The

Acquirer shall have the option to include its own notification along with defendants' notification.

N. Unless the United States otherwise consents in writing, the divestitures pursuant to Section IV, or by Divestiture Trustee appointed pursuant to Section VI, of this Final Judgment, shall include the entire MSA Divestiture Assets and shall be accomplished in such a way as to satisfy the United States, in its sole discretion, that the MSA Divestiture Assets can and will be used by the Acquirer or Acquirers as part of a viable, ongoing business providing telecommunications services.

Divestiture of the MSA Divestiture Assets may be made to one or more Acquirers, provided that (i) all MSA Divestiture Assets in a given Divestiture MSA are divested to a single Acquirer unless otherwise approved by the United States, in its sole discretion, and (ii) in each instance it is demonstrated to the sole satisfaction of the United States that the MSA Divestiture Assets will remain viable and the divestiture of such assets will remedy the competitive harm alleged in the Complaint. The divestitures, whether pursuant to Section IV or Section VI of this Final Judgment,

(1) shall be made to an Acquirer (or Acquirers) that, in the United States' sole judgment, has the intent and capability (including the necessary managerial, operational, technical, and financial capability) of competing effectively in the provision of telecommunications services; and

(2) shall be accomplished so as to satisfy the United States, in its sole discretion, that none of the terms of any agreement between an Acquirer (or Acquirers) and defendants give defendants the ability unreasonably to raise the Acquirer's costs, to lower the Acquirer's efficiency, or otherwise to interfere in the ability of the Acquirer to compete effectively.

V. DIVESTITURE OF INTERCITY DARK FIBER ASSETS

A. Defendants are ordered and directed, within 120 calendar days after the closing of CenturyLink's acquisition of Level 3, or five (5) calendar days after notice of the entry of this Final Judgment by the Court, whichever is later, to sell the Intercity Dark Fiber Assets in a manner consistent with this Final Judgment to an Acquirer and on terms acceptable to the United States, in its sole discretion. The United States, in its sole discretion, may agree to one or more extensions of this time period not to exceed sixty (60) calendar days in total, and shall notify the Court in such circumstances. If approval or consent

from any government unit is necessary with respect to the sale of the Intercity Dark Fiber Assets by defendants or the Divestiture Trustee and if applications or requests for approval or consent have been filed with the appropriate governmental unit within five (5) calendar days after the United States provides written notice pursuant to Section VII(E) that it does not object to the proposed Acquirer, but an order or other dispositive action on such applications has not been issued before the end of the period permitted for divestiture, the period shall be extended with respect to divestiture of those Intercity Dark Fiber Assets for which governmental approval or consent has not been issued until five (5) calendar days after such approval or consent is received. Defendants agree to use their best efforts to divest the Intercity Dark Fiber Assets and to seek all necessary regulatory or other approvals or consents necessary for such divestitures as expeditiously as possible.

B. In accomplishing the divestiture ordered by this Section, defendants promptly shall make known, by usual and customary means, the availability of the Intercity Dark Fiber Assets. Defendants shall inform any person making inquiry regarding a possible purchase of the Intercity Dark Fiber Assets that they are being sold pursuant to this Final Judgment and provide that person with a copy of this Final Judgment. Defendants shall offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information and documents relating to the Intercity Dark Fiber Assets customarily provided in a due diligence process except such information or documents subject to the attorney-client privilege or work-product doctrine. Defendants shall make available such information to the United States at the same time that such information is made available to any other person.

C. Defendants shall permit prospective Acquirers of the Intercity Dark Fiber Assets to have reasonable access to personnel and to such other documents and information customarily provided as part of an IRU transaction, including but not limited to fiber type and performance specifications; date of fiber installation; fiber repair history; fiber maps; route miles; gateway, interconnection, amplification, and regeneration locations; and right-of-way type, owner, and expiration.

D. Defendants shall warrant to the Acquirer that the Intercity Dark Fiber Assets will be available; provided, however, that the Intercity Dark Fiber Assets may be sold prior to the

completion date for additional construction that is required to connect the Dallas to Memphis Dark Fibers to the Memphis Gateway Location specified in Appendix B so long as the defendants have taken all appropriate actions to obtain such permits and approvals and to complete the construction of the connection expeditiously thereafter. The Defendants will warrant to the Acquirer that the Acquirer or other end user of the Dark Fiber will be able to light each Dark Fiber pair on the Intercity Routes using one set of electronic or optronic equipment.

E. Defendants shall not take any action that will impede in any way the permitting, operation, or divestiture of the Intercity Dark Fiber Assets.

F. Defendants shall warrant to the Acquirer that there are currently no material defects in the environmental, zoning, title, right-of-way, or other permits pertaining to the operation of the Intercity Dark Fiber Assets, and that following the sale of the Intercity Dark Fiber Assets, defendants will not undertake, directly or indirectly, any challenges to the environmental, zoning, title, right-of-way, or other permits relating to the operation of the Intercity Dark Fiber Assets.

G. Unless the United States otherwise consents in writing, the sale pursuant to Section V, or by Divestiture Trustee appointed pursuant to Section VI, of this Final Judgment, shall include the entire Intercity Dark Fiber Assets, and shall be accomplished in such a way as to satisfy the United States, in its sole discretion, that the Intercity Dark Fiber Assets can and will be used by the Acquirer as part of a viable, ongoing telecommunications services business including the sale of Dark Fiber IRUs to end users. Divestiture of the Intercity Dark Fiber Assets must be made to a single Acquirer unless otherwise approved by the United States, in its sole discretion. The sale, whether pursuant to Section V or Section VI of this Final Judgment,

(1) shall be made to an Acquirer that, in the United States' sole judgment, has the intent and capability (including the necessary managerial, operational, technical, and financial capability) of competing effectively in the sale of Dark Fiber IRUs to end users; and

(2) shall be accomplished so as to satisfy the United States, in its sole discretion, that none of the terms of any agreement between an Acquirer and defendants give defendants the ability unreasonably to raise the Acquirer's costs, to lower the Acquirer's efficiency, or otherwise to interfere in the ability of the Acquirer to compete effectively.

VI. APPOINTMENT OF DIVESTITURE TRUSTEE

A. If defendants have not divested the Divestiture Assets within the time period specified in Section IV(A) and Section V(A), defendants shall notify the United States of that fact in writing. Upon application of the United States, the Court shall appoint a Divestiture Trustee selected by the United States and approved by the Court to effect the divestiture of the Divestiture Assets.

B. After the appointment of a Divestiture Trustee becomes effective, only the Divestiture Trustee shall have the right to sell the Divestiture Assets. The Divestiture Trustee shall have the power and authority to accomplish the divestiture to an Acquirer(s) acceptable to the United States at such price and on such terms as are then obtainable upon reasonable effort by the Divestiture Trustee, subject to the provisions of Sections IV, V, VI, and VII of this Final Judgment, and shall have such other powers as this Court deems appropriate. Subject to Section VI(D) of this Final Judgment, the Divestiture Trustee may hire at the cost and expense of defendants any investment bankers, attorneys, technical experts or other agents, who shall be solely accountable to the Divestiture Trustee, reasonably necessary in the Divestiture Trustee's judgment to assist in the divestiture. Any such investment bankers, attorneys, or other agents shall serve on such terms and conditions as the United States approves, including confidentiality requirements and conflict of interest certifications.

C. Defendants shall not object to a sale by the Divestiture Trustee on any ground other than the Divestiture Trustee's malfeasance. Any such objections by defendants must be conveyed in writing to the United States and the Divestiture Trustee within ten (10) calendar days after the Divestiture Trustee has provided the notice required under Section VII.

D. The Divestiture Trustee shall serve at the cost and expense of defendants pursuant to a written agreement, on such terms and conditions as the United States approves, including confidentiality requirements and conflict of interest certifications. The Divestiture Trustee shall account for all monies derived from the sale of the assets sold by the Divestiture Trustee and all costs and expenses so incurred. After approval by the Court of the Divestiture Trustee's accounting, including fees for its services yet unpaid and those of any professionals and agents retained by the Divestiture Trustee, all remaining money shall be

paid to defendants and the trust shall then be terminated. The compensation of the Divestiture Trustee and any professionals and agents retained by the Divestiture Trustee shall be reasonable in light of the value of the Divestiture Assets and based on a fee arrangement providing the Divestiture Trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished, but timeliness is paramount. If the Divestiture Trustee and defendants are unable to reach agreement on the Divestiture Trustee's or any agents' or consultants' compensation or other terms and conditions of engagement within fourteen (14) calendar days of appointment of the Divestiture Trustee, the United States may, in its sole discretion, take appropriate action, including making a recommendation to the Court. The Divestiture Trustee shall, within three (3) business days of hiring any other professionals or agents, provide written notice of such hiring and the rate of compensation to defendants and the United States.

E. Defendants shall use their best efforts to assist the Divestiture Trustee in accomplishing the required divestitures, including their best efforts to effect all necessary regulatory or other approvals or consents and will provide necessary representations or warranties as appropriate, related to the sale of the Divestiture Assets. The Divestiture Trustee and any consultants, accountants, attorneys, technical experts, and other agents retained by the Divestiture Trustee shall have full and complete access to the personnel, books, records, and facilities related to the Divestiture Assets, and defendants shall develop financial and other information relevant to the Divestiture Assets as the Divestiture Trustee may reasonably request, subject to reasonable protection for trade secret or other confidential research, development, or commercial information or any applicable privileges. Defendants shall take no action to interfere with or to impede the Divestiture Trustee's accomplishment of the divestiture.

F. After its appointment, the Divestiture Trustee shall file monthly reports with the United States and, as appropriate, the Court setting forth the Divestiture Trustee's efforts to accomplish the divestiture ordered under this Final Judgment. To the extent such reports contain information that the Divestiture Trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address, and telephone number of each person who, during the preceding

month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person. The Divestiture Trustee shall maintain full records of all efforts made to divest the Divestiture Assets.

G. If the Divestiture Trustee has not accomplished the divestitures ordered under this Final Judgment within six months after its appointment, the Divestiture Trustee shall promptly file with the Court a report setting forth (1) the Divestiture Trustee's efforts to accomplish the required divestiture, (2) the reasons, in the Divestiture Trustee's judgment, why the required divestiture has not been accomplished, and (3) the Divestiture Trustee's recommendations. To the extent such reports contains information that the Divestiture Trustee deems confidential, such reports shall not be filed in the public docket of the Court. The Divestiture Trustee shall at the same time furnish such report to the United States which shall have the right to make additional recommendations consistent with the purpose of the trust. The Court thereafter shall enter such orders as it shall deem appropriate to carry out the purpose of the Final Judgment, which may, if necessary, include extending the trust and the term of the Divestiture Trustee's appointment by a period requested by the United States.

H. If the United States determines that the Divestiture Trustee has ceased to act or failed to act diligently or in a reasonably cost-effective manner, it may recommend the Court appoint a substitute Divestiture Trustee.

VII. NOTICE OF PROPOSED DIVESTITURE

A. Within two (2) business days following execution of a definitive divestiture agreement, defendants or the Divestiture Trustee, whichever is then responsible for effecting the divestiture required herein, shall notify the United States of any proposed divestiture required by Section IV or Section V of this Final Judgment. If the Divestiture Trustee is responsible, it shall similarly notify defendants. The notice shall set forth the details of the proposed divestiture and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Divestiture Assets, together with full details of the same.

B. Within fifteen (15) calendar days of receipt by the United States of such

notice, the United States may request from defendants, the proposed Acquirer(s), any other third party, or the Divestiture Trustee, if applicable, additional information concerning the proposed divestiture, the proposed Acquirer(s), any other potential Acquirer, including, but not limited to, the contract (or contracts) required by Section IV(F) of this Final Judgment. Defendants and the Divestiture Trustee shall furnish any additional information requested within fifteen (15) calendar days of the receipt of the request, unless the United States shall otherwise agree.

C. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after the United States has been provided the additional information requested from defendants, the proposed Acquirer(s), any third party, and the Divestiture Trustee, whichever is later, the United States shall provide written notice to defendants and the Divestiture Trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States provides written notice that it does not object, the divestiture may be consummated, subject only to defendants' limited right to object to the sale under Section VI(C) of this Final Judgment. Absent written notice that the United States does not object to the proposed Acquirer(s) or upon objection by the United States, a divestiture proposed under Section IV or Section V shall not be consummated. Upon objection by defendants under Section VI(C), a divestiture proposed under Section VI shall not be consummated unless approved by the Court.

VIII. FINANCING

Defendants shall not finance all or any part of any purchase made pursuant to Section IV, Section V, or Section VI of this Final Judgment.

IX. ASSET PRESERVATION

Until the divestitures required by this Final Judgment have been accomplished, defendants shall take all steps necessary to comply with the Asset Preservation Stipulation and Order entered by this Court. Defendants shall take no action that would jeopardize the divestiture ordered by this Court.

X. AFFIDAVITS

A. Within twenty (20) calendar days of the filing of the Complaint in this matter, and every thirty (30) calendar days thereafter until the divestiture has been completed under Section IV, Section V, or Section VI, defendants shall deliver to the United States an

affidavit as to the fact and manner of its compliance with Section IV, Section V, or Section VI of this Final Judgment. Each such affidavit shall include the name, address, and telephone number of each person who, during the preceding thirty (30) calendar days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts defendants have taken to solicit buyers for the Divestiture Assets, and to provide required information to prospective Acquirers, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by the United States to information provided by defendants, including limitation on information, shall be made within fourteen (14) calendar days of the receipt of such affidavit.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, defendants shall deliver to the United States an affidavit that describes in reasonable detail all actions defendants have taken and all steps defendants have implemented on an ongoing basis to comply with Section IX of this Final Judgment. Defendants shall deliver to the United States an affidavit describing any changes to the efforts and actions outlined in defendants' earlier affidavits filed pursuant to this section within fifteen (15) calendar days after the change is implemented.

C. Defendants shall keep all records of all efforts made to preserve and divest the Divestiture Assets until one year after such divestiture has been completed.

XI. COMPLIANCE INSPECTION

A. For the purposes of determining or securing compliance with this Final Judgment, or of any related orders such as any Hold Separate Stipulation and Order, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally-recognized privilege, from time to time authorized representatives of the United States Department of Justice, including consultants and other persons retained by the United States, shall, upon written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendants, be permitted:

(1) access during defendants' office hours to inspect and copy, or at the

option of the United States, to require defendants to provide hard copy or electronic copies of, all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of defendants, relating to any matters contained in this Final Judgment; and

(2) to interview, either informally or on the record, defendants' officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by defendants.

B. Upon the written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, defendants shall submit written reports or response to written interrogatories, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this section shall be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by defendants to the United States, defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(1)(g) of the Federal Rules of Civil Procedure, and defendants mark each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(1)(g) of the Federal Rules of Civil Procedure," then the United States shall give defendants ten (10) calendar days' notice prior to divulging such material in any legal proceeding (other than grand jury proceedings).

XII. NO REACQUISITION

Except as provided in this Final Judgment, absent written approval by the United States, in its sole discretion, defendants may not reacquire or lease back any part of the Divestiture Assets during the term of this Final Judgment.

XIII. RETENTION OF JURISDICTION

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or

construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XIV. EXPIRATION OF FINAL JUDGMENT

Unless this Court grants an extension, this Final Judgment shall expire ten (10) years from the date of its entry.

XV. PUBLIC INTEREST DETERMINATION

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the

Antitrust Procedures and Penalties Act, 15 U.S.C. 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon and the United States' responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

Date: _____
 Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. 16

United States District Judge

APPENDIX A

The following customers serviced in the Divestiture MSAs, identified for confidentiality purposes by Level 3's customer identification code, are excluded from the definition of MSA Customers and are not subject to the procedures outlined in Section IV(K) and (L) of this Final Judgment:

1. 1-8UM5C, Tucson, AZ
2. 2-LOTDXB, Albuquerque, NM
3. 2-79C52T, Boise, ID 83716
4. 1-5JXJ4, Albuquerque, NM
5. 2-TRJST, Boise, ID

APPENDIX B

Route	Origin gateway location address	Termination gateway location address
Atlanta to Nashville	55 Marietta St. NW., Atlanta, GA 30303	460 Metroplex Dr., Nashville, TN 37211.
Birmingham to Billingsley	2001 Park Pl., Birmingham, AL 35203	4521 Chilton Rd., Billingsley, AL 36006.
Charlotte to Atlanta	731 E Trade St., Charlotte, NC 28202	55 Marietta St. NW., Atlanta, GA 30303.
Cleveland to Buffalo	1501 Euclid Ave., Cleveland, OH 44115	1090 Harlem Rd., Buffalo, NY 14227.
Dallas to Memphis	1950 N Stemmons Fwy., Dallas, TX 75207	715 S Danny Thomas Blvd., Memphis, TN 38126.
Denver to Dallas	23751 E 6th Ave., Aurora, CO 80018	1950 N Stemmons Fwy., Dallas, TX 75207.
Denver to Kansas City	23751 E 6th Ave., Aurora, CO 80018	711 E 19th St., Kansas City, MO 64108.
El Paso to San Antonio	201 E Main St., El Paso, TX 79901	231 Rotary St., San Antonio, TX 78202.
Houston to New Orleans	11947 N Fwy., Houston, TX 77060	1340 Poydras St., New Orleans, LA 70112.
Indianapolis to Cincinnati	550 Kentucky Ave., Indianapolis, IN 46225	607 Evans St., Cincinnati, OH 45204.
Kansas City to St Louis	711 E 19th St., Kansas City, MO 64108	11755 Dunlap Industrial Dr., Maryland Heights, MO 63043.
Los Angeles to Las Vegas ...	624 S Grand Ave., Los Angeles, CA 90017	4275 E Sahara Ave., Las Vegas, NV 89104.
Memphis to Nashville	715 S Danny Thomas Blvd., Memphis, TN 38126	460 Metroplex Dr., Nashville, TN 37211.
Miami to Jacksonville	36 NE 2nd St., Miami, FL 33132	421 W Church St., Jacksonville, FL 32202.
Nashville to Indianapolis	460 Metroplex Dr., Nashville, TN 37211	550 Kentucky Ave., Indianapolis, IN 46225.
Orlando to Daytona Beach ..	121 Weber St., Orlando, FL 32803	500 W International Speedway Blvd., Daytona Beach, FL 32114.
Phoenix to El Paso	429 S 6th Dr., Phoenix, AZ 85003	201 E Main St., El Paso, TX 79901.
Portland to Salt Lake City ...	707 SW Washington St., Portland, OR 97205	572 Delong St., Salt Lake City, UT 84104.
Raleigh to Charlotte	115 N Harrington St., Raleigh, NC 27603	731 E Trade St., Charlotte, NC 28202.
Richmond to Raleigh	4233 Carolina Ave., Richmond, VA 23222	115 N Harrington St., Raleigh, NC 27603.
Sacramento to Salt Lake City.	770 L St., Sacramento, CA 95814	572 Delong St., Salt Lake City, UT 84104.
Sacramento to San Francisco.	770 L St., Sacramento, CA 95814	200 Paul Ave., San Francisco, CA 94124.
Salt Lake City to Denver	572 Delong St., Salt Lake City, UT 84104	23751 E 6th Ave., Aurora, CO 80018.
San Diego to Phoenix	4216 University Ave., San Diego, CA 92105	429 S 6th Dr., Phoenix, AZ 85003.
San Francisco to Los Angeles.	200 Paul Ave., San Francisco, CA 94124	624 S Grand Ave., Los Angeles, CA 90017.
Tallahassee to Jacksonville	601 Stone Valley Way, Tallahassee, FL 32310	421 W Church St., Jacksonville, FL 32202.
Tallahassee to Tampa	601 Stone Valley Way, Tallahassee, FL 32310	5908A Hampton Oaks Pkwy., Tampa, FL 33610.
Tampa to Miami	5908A Hampton Oaks Pkwy., Tampa, FL 33610	36 NE 2nd St., Miami, FL 33132.
Tampa to Orlando	5908A Hampton Oaks Pkwy., Tampa, FL 33610	121 Weber St., Orlando, FL 32803.
Washington, DC to Richmond.	1500 Eckington Pl. NE., Washington DC 20002	4233 Carolina Ave., Richmond, VA 23222.

United States District Court for the District of Columbia

United States of America, Plaintiff, v. *Centurylink, Inc.*, and *Level 3 Communications, Inc.* Defendants.
 Civil Action No. 17-cv-2028
 Judge: Ketanji Brown Jackson

COMPETITIVE IMPACT STATEMENT

Plaintiff United States of America, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act ("APPA" or "Tunney Act"), 15 U.S.C. 16(b)-(h), files this Competitive Impact Statement

relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. NATURE AND PURPOSE OF THE PROCEEDING

Defendant CenturyLink, Inc. and defendant Level 3 Communications, Inc. entered into an agreement, dated October 31, 2016, pursuant to which CenturyLink would acquire Level 3. The United States filed a civil antitrust Complaint on October 2, 2017, seeking to enjoin the proposed acquisition. The

Complaint alleges that the likely effect of this acquisition would be a substantial lessening of competition in the markets for: (1) the provision of fiber-based enterprise and wholesale telecommunications services providing local connectivity to customer premises in the Albuquerque, New Mexico; Boise, Idaho⁶; and Tucson, Arizona

⁶ The full name of this MSA as defined by the Office of Management and Budget is Boise City-Nampa, Idaho.

Metropolitan Statistical Areas⁷ (the “Divestiture MSAs”), and (2) the sale of dark fiber connecting the endpoints specified in Appendix B of the proposed Final Judgment (the “Intercity Routes”), all in violation of Section 7 of the Clayton Act, 15 U.S.C. 18. As a result of this loss of competition, prices for fiber-based enterprise and wholesale telecommunications services providing local connectivity to customer premises in the Divestiture MSAs would likely increase and quality of service would likely decrease, and prices for dark fiber on the Intercity Routes would likely increase and availability would likely decrease.

At the same time the Complaint was filed, the United States also filed an Asset Preservation Stipulation and Order and a proposed Final Judgment, which are designed to eliminate the anticompetitive effects of the acquisition. Under the proposed Final Judgment, which is explained more fully below, defendants are required: (1) to divest to an acquirer (or acquirers) all the assets used by Level 3 exclusively or primarily to support provision of telecommunications services to enterprise and wholesale customer locations in Albuquerque, Boise, and Tucson (the “MSA Divestiture Assets”), and (2) to enter into indefeasible right of use (“IRU”) agreements with an acquirer for twenty-four strands of dark fiber on the Intercity Routes as well as dark fiber necessary to connect those strands with certain other routes (the “Intercity Dark Fiber Assets”).

Under the terms of the Asset Preservation Stipulation and Order, defendants will take steps to ensure that the MSA Divestiture Assets are operated as ongoing, economically viable competitive assets and remain uninfluenced by the consummation of the acquisition, and that competition is maintained during the pendency of the ordered divestiture. Subject to the approval of the United States, defendants shall appoint a person or persons to oversee the MSA Divestiture Assets. This person shall have complete, independent managerial responsibility for the MSA Divestiture Assets. Defendants will also preserve, maintain and take all actions necessary to be able to effectuate the sale of the Intercity Dark Fiber Assets.

The United States and defendants have stipulated that the proposed Final

Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. DESCRIPTION OF THE EVENTS GIVING RISE TO THE ALLEGED VIOLATION

A. The Defendants and the Proposed Transaction

Defendant CenturyLink is a Louisiana corporation headquartered in Monroe, Louisiana. It is the third-largest wireline telecommunications company in the United States and the incumbent Local Exchange Carrier (“ILEC”)⁸ in portions of 37 states. CenturyLink also has one of the most extensive physical fiber networks in the United States, including considerable intercity fiber infrastructure. As of December 31, 2016, CenturyLink owned and operated a 360,000 route-mile global network, including a 265,000-route-mile U.S. fiber network, and generated 2016 operating revenues of \$17.47 billion.

Defendant Level 3 is a Delaware corporation headquartered in Broomfield, Colorado. It is one of the largest wireline telecommunications companies in the United States and owns significant local network assets, comprised of metropolitan area network components and direct fiber connections to numerous commercial buildings throughout the United States, including within portions of CenturyLink’s ILEC territory. Level 3 also operates one of the most extensive physical fiber networks in the United States, including sizeable intercity fiber infrastructure. Level 3 owns and operates 200,000 route-miles of global fiber and generated \$8.17 billion of operating revenue in 2016.

On October 31, 2016, CenturyLink and Level 3 entered into an Agreement and Plan of Merger whereby CenturyLink will acquire Level 3 for approximately \$34 billion.

B. Anticompetitive Effects of the Proposed Transaction

Wireline telecommunications infrastructure is critical in transporting the data that individuals, businesses, and other entities transmit. Among the

key components of this infrastructure are: the fiber strands connecting an individual building to a metropolitan area network (often referred to as the last-mile connection); the fiber strands and related equipment comprising a metropolitan area network that serve an entire city or MSA; and the intercity fiber strands connecting cities to one another.

(1) Fiber-Based Enterprise and Wholesale Telecommunications Services Providing Local Connectivity to Customer Premises in the Divestiture MSAs

Enterprise and wholesale customers⁹ of all sizes rely on last-mile connections to link their premises to a larger metropolitan area network and to all points beyond. In the Divestiture MSAs, defendants have two of the three largest fiber-based metropolitan area networks and own among the largest number of last-mile connections of any telecommunications providers.

CenturyLink has the largest number of last-mile connections in each of the Divestiture MSAs, serving the majority of buildings that require high-bandwidth, high-reliability telecommunications services. In each of the Divestiture MSAs, CenturyLink owns fiber connections to more than a thousand buildings. Level 3 has fiber connections to several hundred buildings in each of the Divestiture MSAs, making it one of the three largest fiber-based networks in each of the Divestiture MSAs. In many buildings in the Divestiture MSAs, CenturyLink and Level 3 control the only last-mile fiber connections and are the only available choices for customers in those buildings. In other buildings in the Divestiture MSAs, CenturyLink and Level 3 are two of only three significant providers, making them two of only three available choices. And even where CenturyLink and Level 3 do not presently have fiber connections, they still may be the best alternative for a substantial number of buildings because they are the only two providers with metropolitan area network fiber located close enough to connect economically.

Some customers within the Divestiture MSAs have multiple locations throughout an individual MSA. These multi-location customers often prefer to buy telecommunications services for all of their locations within

⁷ An MSA is a geographical region defined by the Office of Management and Budget for use by federal statistical agencies, such as the Census Bureau. It is based on the concept of a core urban area with a large concentrated population, plus adjacent communities having close economic and social ties to the core.

⁸ An incumbent local exchange carrier (ILEC) is the telephone company that was the sole provider of local exchange service (local phone service) in a given local area prior to passage of the 1996 Telecommunications Act, which allowed for competitive local exchange carriers (CLECs) to compete for this local service.

⁹ Enterprise customers are broadly defined here to include businesses of varying sizes and institutional customers such as community colleges, hospitals and government agencies. Wholesale customers are, typically, telecommunications carriers seeking to reach customer locations in areas where they do not have wireline infrastructure.

the MSA from a single provider. Defendants CenturyLink and Level 3 both have an extensive fiber footprint in each of the Divestiture MSAs. As a result, CenturyLink and Level 3 are often each other's closest competitors for these multi-location customers.

Currently, CenturyLink and Level 3 compete head-to-head to provide these last-mile fiber-based telecommunications services to single and multi-location customers in the Divestiture MSAs. Customers benefit from this competition through lower prices and higher quality service. CenturyLink's acquisition of Level 3 likely would result in a loss of this competition, leading to increased prices and decreased service quality for such last-mile connections.

(2) Intercity Dark Fiber

CenturyLink and Level 3 both own substantial networks of fiber-optic cable connecting cities throughout the United States. By placing electronic equipment on either end of the fiber, fiber owners can "light" the fiber and use it to transmit large volumes of data between cities. Fiber owners who light the cable can then charge customers to transport data over the fiber (a product called lit services). Customers who purchase lit services typically buy a certain amount of data capacity between two specified endpoints, pay on a monthly basis, and rely on the fiber provider to manage their data traffic.

Fiber owners can also sell dark fiber, where customers purchase rights to the underlying fibers, provide their own electronic equipment to light the fiber, and manage their own networks. Dark fiber is generally sold through IRUs—a type of long-term lease—which allow the customer to arrange for its own equipment to be placed on the fiber, but permits the grantor to retain responsibility for maintaining the fiber and dealing with outages or cuts. Customers who buy intercity dark fiber using IRUs, such as webscale companies¹⁰ and financial institutions, require dark fiber's scalability, capacity, flexibility, and security.

CenturyLink and Level 3 are two of only a handful of companies with robust nationwide intercity fiber networks, and two of only a few companies in the United States that sell intercity dark fiber. On many of the Intercity Routes, CenturyLink and Level 3 are the only two, or two of only three, providers who

sell intercity dark fiber. In addition, customers typically require dark fiber across multiple routes and prefer dark fiber providers who can provide them with contiguous routes, including those spanning from coast to coast. CenturyLink and Level 3 are two of only three intercity dark fiber providers with at least one contiguous route connecting the West Coast to the East Coast.

Competition between CenturyLink and Level 3 has led to lower prices for and increased availability of intercity dark fiber. This acquisition will eliminate that competition, likely resulting in increased prices and decreased availability.

III. EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The divestitures required by the proposed Final Judgment will eliminate the anticipated anticompetitive effects of the acquisition in the markets for: (1) The provision of fiber-based enterprise and wholesale telecommunications services providing local connectivity to customer premises in the Divestiture MSAs, and (2) the sale of dark fiber on the Intercity Routes, by establishing independent and economically viable competitors in each of these markets. The proposed Final Judgment requires defendants, within 120 days after the filing of the Complaint, or five days after notice of the entry of the Final Judgment by the Court, whichever is later, to:

(1) divest the MSA Divestiture Assets to a single acquirer in each Divestiture MSA (while each MSA network may not have more than one acquirer, each of the MSAs may have a different acquirer), on terms acceptable to the United States, and

(2) sell the Intercity Dark Fiber Assets to a single acquirer on terms acceptable to the United States.

Both the MSA Divestiture Assets and the Intercity Dark Fiber Assets are attractive assets that should draw suitable acquirers with sufficient expertise to accomplish the divestitures expeditiously. Prompt divestitures are important both to minimize customer uncertainty and to maintain the pre-merger competitiveness of the markets in question. Although the United States expects the divestitures to be completed within the 120-day period, in order to preserve flexibility to address unanticipated circumstances the United States may, in its sole discretion, agree to one or more extensions of this time period not to exceed sixty calendar days in total, and shall notify the Court in such circumstances.

The divestitures shall be made to an acquirer (or acquirers) that, in the United States' sole judgment, has the

intent and capability (including the necessary managerial, operational, technical, and financial capability) to compete effectively in the provision of the relevant telecommunications services in the Divestiture MSAs or the sale of intercity dark fiber.

A. MSA Divestiture Assets

With regard to the Divestiture MSAs, the United States is requiring the divestiture of Level 3's entire fiber-based metropolitan area network, including all its last-mile connections. This will encompass all assets, tangible and intangible, used exclusively or primarily to support Level 3's provision of fiber-based telecommunications services to customer locations in the Divestiture MSAs, including, but not limited to, assets such as metropolitan fiber switching and routing equipment, building laterals, ownership interests in and access rights to all conduits, ducts and other containing and supporting structures, and repair and performance records.

The MSA Divestiture Assets shall also include other assets used by Level 3 for its provision of telecommunications services to customer locations in each Divestiture MSA, including, but not limited to, all licenses, permits and authorizations related to the MSA Divestiture Assets issued by any governmental organization to the extent that such licenses, permits and authorizations are transferrable and such transfer would not prevent Level 3 from providing telecommunications services in the three Divestiture MSAs; all contracts (except as otherwise excluded by the terms of this Final Judgment), teaming arrangements, agreements, leases, commitments, certifications, and understandings, including supply agreements; customer lists and addresses; all repair and performance records relating to the MSA Divestiture Assets; and all other records relating to the MSA Divestiture Assets reasonably required to permit the Acquirer to conduct a thorough due diligence review of and to operate the MSA Divestiture Assets. The MSA Divestiture Assets shall not include assets, wherever located, used exclusively or primarily in or in support of Level 3's provision of telecommunications services outside the Divestiture MSAs, including the provision of telecommunications services between MSAs.

Based on its investigation of the proposed transaction, the United States believes that the divestiture of the entirety of Level 3's telecommunications networks in each of the Divestiture MSAs will effectively replace the

¹⁰ Webscale companies are those primarily engaged in the business of providing large amounts of data to end users through web-based services; they require facilities and infrastructure to create, store, and then transport that data across long distances.

competition that will be lost through this acquisition. Selling the MSA Divestiture Assets as an ongoing competitive business in each Divestiture MSA will provide the acquirer(s) with the ability and incentive to continue to invest in and expand the acquired business, replicating as closely as possible the competitive conditions in each of the Divestiture MSAs prior to the merger. The particular nature of the competitive problem—including a potential substantial lessening of competition for last-mile services in a large number of commercial buildings throughout each of the Divestiture MSAs—was such that a divestiture of fiber only to certain buildings would be insufficient to remedy the competitive problem and re-create a viable competitor; rather, a divestiture of the network assets throughout each MSA was appropriate in these circumstances.

The United States believes that having the acquirer operate as a completely separate competitive entity as quickly as possible is the most effective competitive outcome and expects that an acquirer with telecommunications experience will be able to do so within one year. However, in order to avoid unnecessary disruptions while the acquirer is setting up its business, at the option of the acquirer(s), defendants are also required to enter into a Transition Services Agreement for any services that are reasonably necessary for the acquirer(s) to maintain, operate, provision, monitor, or otherwise support the MSA Divestiture Assets, including any required back office and information technology services. This agreement will last for no more than twelve (12) months, although the United States may approve one or more extensions for a period of up to an additional twelve (12) months.

In addition, subject to certain conditions, upon closing of the divestiture sale in each of the Divestiture MSAs, defendants, for a period of two years or the expiration of the customer's contract (whichever is shorter), will release Level 3's customers with service locations in that MSA from their contractual obligations for those locations, including otherwise applicable termination fees, to enable the customers to select the acquirer as their telecommunications services provider. Each Level 3 customer who has locations in multiple MSAs will similarly be released from its contracts (including at its locations outside of the Divestiture MSAs) to allow it to switch to the acquirer, if the monthly recurring revenue Level 3 earns from that customer is greater within the Divestiture MSAs than from the

aggregate of all locations outside those MSAs. Within fifteen business days of a divestiture in a Divestiture MSA, defendants will notify all MSA customers of the divestiture and of their options under the proposed Final Judgment. The acquirer will have the option to include its own customer notification with that of the defendants.

In requiring that customers be released from their contracts rather than requiring that customer contracts be divested along with the other assets, the United States is balancing the competitive benefits of the divestiture against the potential imposition of burdens on customers. For example, Level 3 service contracts in the Divestiture MSAs may include a combination of basic connectivity services and other value-added services, such as services that prioritize routing across a customer's network. The value-added services that an acquirer chooses to offer may differ somewhat from the value-added services offered by Level 3. Thus, divesting customer contracts in specific circumstances would either impose a burden on the customer to accept a different value-added service package than the one they initially bargained for, or would impose a burden on the acquirer to replicate the exact services in Level 3's customer contracts. Requiring that customers be released from their contracts for a defined period of time will, however, allow the acquirer to compete for all customers in each of the Divestiture MSAs immediately upon completion of the divestiture.

For a period of two years, defendants are also prohibited from initiating customer-specific communications to solicit any customers who have switched service to the acquirer(s), but can respond to inquiries from the customer or enter into negotiations with the customer at the customer's request. This strikes a balance between enabling an acquirer to establish its business while at the same time generally giving customers at least two meaningful alternatives. The provisions of the proposed Final Judgment allowing customers with locations in the Divestiture MSAs to switch their service to the acquirer(s) free of contractual penalties should, in these circumstances, be sufficient to provide the acquirer(s) with adequate business opportunities and revenue streams while at the same time maximizing customer choice and avoiding customer disruption.

Subject to the United States' approval, defendants may negotiate with each acquirer of MSA Divestiture Assets to lease back from that acquirer for a

period of two years all lateral connections and metropolitan area network needed for defendants to support Level 3 customers that choose to remain customers of defendants. This will allow defendants to continue to provide service without interruption, at least until the defendants have time to transition those customers to its own facilities or make other arrangements.

B. Intercity Dark Fiber Assets

Under the proposed Final Judgment, defendants are also required to sell, to a single acquirer, IRUs for twenty-four strands of dark fiber on each of the Intercity Routes. The proposed Final Judgment requires that the Intercity Dark Fiber Assets be divested to a single acquirer because intercity dark fiber customers find it more efficient to deal with one fiber owner than to piece together networks from multiple owners. In addition, divesting all the Intercity Dark Fiber Assets to a single acquirer is most likely to result in the creation of a viable, competitive dark fiber provider, thereby replicating the pre-merger competitive market conditions. Twenty-four fiber strands will be sufficient to allow the acquirer to compete with the combined company on the overlap routes.

Defendants are also required to include all the associated rights necessary for the acquirer to resell the dark fiber to end users and to permit the acquirer, or any of its assignees, to light the fiber and use it to provide telecommunications services. The IRUs will have a term of twenty-five years with two five-year renewal options, giving the acquirer the option to control the fiber for up to thirty-five years.¹¹ The conveyance of intercity dark fiber via a long-term IRU is typical industry practice. This structure ensures that the grantee can use the fiber as it sees fit, but the fiber grantor remains responsible for handling the complexities of ownership, such as maintaining rights-of-way and repairing fiber cuts. The twenty-five year terms is also consistent with the industry practice, as purchasers of intercity dark fiber typically seek IRUs in the range of 10–30 years. If, however, new technologies emerge or the market shifts, the acquirer will have the flexibility to end its lease after 25 years if it no longer sees value in keeping these IRUs.

Defendants are also required to provide a contiguous network of fiber by ensuring that fiber on all of the Intercity

¹¹ These extensions will be at a price not to exceed 20% of the initial IRU fee. This provision ensures that defendants will not be able to charge exorbitant fees to discourage the acquirer from renewing.

Routes sharing an endpoint connect with one another or, where they do not connect, by constructing a connection to link them. Connecting the fibers together into one network is important because it will provide the acquirer with more attractive inventory, and, importantly, will provide a cross-country route appealing to intercity dark fiber customers that demand a path to carry their data between the dense population areas on the coasts.

The proposed Final Judgment ensures that the Intercity Dark Fiber Assets include all of the rights necessary for the acquirer both to resell the fiber to end users and to allow those end users to be able to light the fiber themselves. Although the Division expects the acquirer to sell some of the Intercity Dark Fiber Assets as dark fiber to end users, the acquirer also may want to sell lit services in conjunction with the dark fiber or use some of the fiber strands to support its own telecommunications infrastructure. This is permissible under the proposed Final Judgment; because sellers of dark fiber frequently sell such fiber in conjunction with lit services, the ability to use the Intercity Dark Fiber Assets to provide both lit services and dark fiber should help ensure that the acquirer will be an effective, viable competitor on the Intercity Routes. The acquirer must, however, have the intention and experience necessary to ensure that the divestiture of the Intercity Dark Fiber Assets will replace competition in the market for intercity dark fiber lost through the acquisition.

* * * * *

In the event that defendants do not accomplish the divestitures within the period prescribed in the proposed Final Judgment, the proposed Final Judgment provides that the Court will appoint a trustee selected by the United States and approved by the Court to effect the divestiture. If a trustee is appointed, the proposed Final Judgment provides that defendants will pay all costs and expenses of the trustee. The trustee's commission will be structured so as to provide an incentive for the trustee based on the price obtained and the speed with which the divestiture is accomplished. After his or her appointment becomes effective, the trustee will file monthly reports with the United States and, as appropriate, the Court setting forth his or her efforts to accomplish the divestiture. At the end of six months, if the divestiture has not been accomplished, the trustee and the United States will make recommendations to the Court, which shall enter such orders as it deems appropriate, in order to carry out the

purpose of the Final Judgment, including extending the trust or the term of the trustee's appointment.

The divestiture provisions of the proposed Final Judgment will eliminate the anticompetitive effects of the acquisition in all of the markets discussed above.

IV. REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no prima facie effect in any subsequent private lawsuit that may be brought against defendants.

V. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENT

The United States and defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the United States Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of the United States will be filed with the Court. In addition, comments will be posted on the U.S. Department of Justice, Antitrust Division's Web site and, under certain circumstances, published in the **Federal Register**.

Written comments should be submitted to:

Scott A. Scheele, Chief,
Telecommunications and Broadband
Section, Antitrust Division, United
States Department of Justice, 450 Fifth
Street NW., Suite 7000, Washington,
DC 20530, *scott.scheele@usdoj.gov*.

The proposed Final Judgment provides that the Court retains jurisdiction over this action and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against defendants. The United States could have continued the litigation and sought preliminary and permanent injunctions against CenturyLink's acquisition of Level 3. The United States is satisfied, however, that the divestiture of assets described in the proposed Final Judgment will preserve competition in the markets for: (1) The provision of fiber-based enterprise and wholesale telecommunications services providing local connectivity to customer premises in the Divestiture MSAs, and (2) the sale of dark fiber on the Intercity Routes, as identified by the United States. Thus, the proposed Final Judgment would achieve all or substantially all of the relief the United States would have obtained through litigation, but avoids the time, expense, and uncertainty of a full trial on the merits of the Complaint.

VII. STANDARD OF REVIEW UNDER THE APPA FOR THE PROPOSED FINAL JUDGMENT

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment "is in the public interest." 15 U.S.C. 16(e)(1). In making that determination, the Court, in accordance with the statute as amended in 2004, is required to consider:

(A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A)–(B). In considering these statutory factors, the Court's inquiry is necessarily a limited one as the United States is entitled to "broad discretion to settle with the defendant within the reaches of the public interest." *United States v. Microsoft Corp.*, 56 F.3d 1448, 1461 (D.C. Cir. 1995); see *United States v. U.S. Airways Group, Inc.*, 38 F. Supp. 3d 69, 75 (D.D.C. 2014) (noting the court has broad discretion as to the adequacy of the relief at issue); *United States v. InBev N.V./S.A.*, No. 08–1965 (JR), 2009 U.S. Dist. LEXIS 84787, at *3 (D.D.C. Aug. 11, 2009) (noting that the court's review of a consent judgment is limited and only inquires "into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanism to enforce the final judgment are clear and manageable"); see generally *United States v. SBC Commc'ns, Inc.*, 489 F. Supp. 2d 1 (D.D.C. 2007) (assessing public interest standard under the Tunney Act).¹²

As the United States Court of Appeals for the District of Columbia Circuit has held, under the APPA a court considers, among other factors, the relationship between the remedy secured and the specific allegations set forth in the United States' complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. See *Microsoft*, 56 F.3d at 1458–62; *United States v. Iron Mountain, Inc.*, 217 F. Supp. 3d 146, 151–52 (D.D.C. 2016) (considering the decree's clarity, sufficiency of compliance mechanisms, and third-party impact). With respect to the adequacy of the relief secured by the decree, a court may not "engage in an unrestricted evaluation of what relief would best serve the public." *United States v. BNS, Inc.*, 858 F.2d 456, 462 (9th Cir. 1988) (quoting *United States v.*

Bechtel Corp., 648 F.2d 660, 666 (9th Cir. 1981)); see also *Microsoft*, 56 F.3d at 1460–62; *InBev*, 2009 U.S. Dist. LEXIS 84787, at *3; *United States v. Alcoa, Inc.*, 152 F. Supp. 2d 37, 40 (D.D.C. 2001). Courts have held that:

[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is "within the reaches of the public interest." More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).¹³ In determining whether a proposed settlement is in the public interest, a district court "must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations." *SBC Commc'ns*, 489 F. Supp. 2d at 17; see also *Microsoft*, 56 F.3d at 1461 (noting the need for courts to be "deferential to the government's predictions as to the effect of the proposed remedies"); *Iron Mountain*, 217 F. Supp. 3d at 151 (noting that a court should not reject the proposed remedies because it believes others are preferable); *United States v. Archer-Daniels-Midland Co.*, 272 F. Supp. 2d 1, 6 (D.D.C. 2003) ("A district court must accord due respect to the government's prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case.").

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. "[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.'" *United States v. Am. Tel. & Tel. Co.*, 552 F. Supp. 131, 151 (D.D.C. 1982) (citations

omitted) (quoting *United States v. Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass. 1975)), *aff'd sub nom. Maryland v. United States*, 460 U.S. 1001 (1983); see also *U.S. Airways*, 38 F. Supp. 3d at 75 ("[R]oom must be made for the government to grant concessions in the negotiation process for settlements." (quoting *SBC Commc'ns*, 489 F. Supp. 2d at 15)); *United States v. Alcan Aluminum Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States "need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms." *SBC Commc'ns*, 489 F. Supp. 2d at 17.

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the court to "construct [its] own hypothetical case and then evaluate the decree against that case." *Microsoft*, 56 F.3d at 1459; see also *U.S. Airways*, 38 F. Supp. 3d at 75 ("[A] court must simply determine 'whether there is a factual foundation for the government's decisions such that its conclusions regarding the proposed settlements are reasonable.'" (quoting *SBC Commc'ns*, 489 F. Supp. 2d at 15–16)); *InBev*, 2009 U.S. Dist. LEXIS 84787, at *20 ("[T]he 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged."). Because the "court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place," it follows that "the court is only authorized to review the decree itself," and not to "effectively redraft the complaint" to inquire into other matters that the United States did not pursue. *Microsoft*, 56 F.3d at 1459–60. As this Court confirmed in *SBC Communications*, courts "cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power." *SBC Commc'ns*, 489 F. Supp. 2d at 15.

In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction that "[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene." 15 U.S.C. 16(e)(2); see also

¹² The 2004 amendments substituted "shall" for "may" in directing relevant factors for court to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. Compare 15 U.S.C. 16(e) (2004), with 15 U.S.C. 16(e)(1) (2006); see also *SBC Commc'ns*, 489 F. Supp. 2d at 11 (concluding that the 2004 amendments "effected minimal changes" to Tunney Act review).

¹³ Cf. *BNS*, 858 F.2d at 464 (holding that the court's "ultimate authority under the [APPA] is limited to approving or disapproving the consent decree"); *United States v. Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to "look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass"). See generally *Microsoft*, 56 F.3d at 1461 (discussing whether "the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest'").

U.S. Airways, 38 F. Supp. 3d at 76 (“[A] court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the Tunney Act.”). The language wrote into the statute what Congress intended when it enacted the Tunney Act in 1974, as Senator Tunney explained: “[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.” 119 Cong. Rec. 24,598 (1973) (statement of Sen. Tunney). Rather, the procedure for the public interest determination is left to the discretion of the court, with the recognition that the court’s “scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings.” *SBC Commc’ns*, 489 F. Supp. 2d at 11.¹⁴ “A court can make its public interest determination based on the competitive impact statement and response to public comments alone.” *U.S. Airways*, 38 F. Supp. 3d at 76.

VIII. DETERMINATIVE DOCUMENTS

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: November 14, 2017.

Respectfully,

Scott Reiter, Trial Attorney, United States Department of Justice, Antitrust Division, Telecommunications and Broadband Section.

450 Fifth Street, NW., Suite 7000, Washington, DC 20530, Telephone: (202) 598-8796, Facsimile: (202) 514-6381, Email: scott.reiter@usdoj.gov.

CERTIFICATE OF SERVICE

I, Scott Reiter, hereby certify that on November 14, 2017, I caused copies of the foregoing Competitive Impact Statement to be served upon defendants CenturyLink, Inc. and Level 3 Communications, Inc. through the ECF system and by mailing the documents

¹⁴ See *United States v. Enova Corp.*, 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (“The Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone.”); *United States v. Mid-Am. Dairymen, Inc.*, No. 73-CV-681-W-1, 1977 U.S. Dist. LEXIS 15858, at *22 (W.D. Mo. May 17, 1977) (“Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.”); S. Rep. No. 93-298, at 6 (1973) (“Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.”).

electronically to the duly authorized legal representatives of the defendants, as follows:

Counsel for CenturyLink, Inc.

Ilene Knable Gotts, Wachtell, Lipton, Rosen & Katz, 51 West 52nd Street, New York, NY 10019, Phone: 212-403-1247, ikgotts@wlrk.com.

Counsel for Level 3 Communication, Inc.

J. Bruce McDonald, Jones Day, 717 Texas Avenue, Houston, TX 77002, Phone: 832-239-3822, bmcdonald@jonesday.com.

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[FR Doc. 2017-25373 Filed 11-22-17; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Federal Employees’ Compensation Act Medical Reports and Compensation Claims

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Office of Workers’ Compensation Programs (OWCP) sponsored information collection request (ICR) revision titled, “Federal Employees’ Compensation Act Medical Reports and Compensation Claims,” to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before December 26, 2017.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* Web site at http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201701-1240-002 (this link

will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202-693-4129, TTY 202-693-8064, (these are not toll-free numbers) or sending an email to DOL_PRA_PUBLIC@dol.gov.

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL-OWCP, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202-395-5806 (this is not a toll-free number); or by email: OIRA_submission@omb.eop.gov. Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: DOL_PRA_PUBLIC@dol.gov.

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202-693-4129, TTY 202-693-8064, (these are not toll-free numbers) or sending an email to DOL_PRA_PUBLIC@dol.gov.

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for revisions to the Federal Employees’ Compensation Act (FECA) Medical Reports and Compensation Claims information collection. Forms within this collection are used to file claims for wage loss or permanent impairment due to a Federal employment-related injury and to obtain necessary medical documentation to determine whether a claimant is entitled to benefits under the FECA. This information collection has been classified as a revision, because the agency is clarifying questions related to tetanus, incorporating new guidance forms, and clarifying other questions and disclosures to ensure respondents understand what information is needed and what assistance and benefits are available. This information collection is authorized under 5 U.S.C. 8102.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not

display a valid Control Number. See 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1240-0046. The current approval is scheduled to expire on January 31, 2018; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notices published in the **Federal Register** on April 6, 2017 (82 FR 16858) and August 3, 2017 (82 FR 36159).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1240-0046. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL-OWCP.

Title of Collection: Federal Employees' Compensation Act Medical Reports and Compensation Claims.

OMB Control Number: 1240-0046.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 282,353.

Total Estimated Number of Responses: 282,353.

Total Estimated Annual Time Burden: 25,605 hours.

Total Estimated Annual Other Costs Burden: \$110,118.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: November 14, 2017.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017-25333 Filed 11-22-17; 8:45 am]

BILLING CODE 4510-CH-P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219-0148]

Proposed Extension of Information Collection; Proximity Detection Systems for Continuous Mining Machines in Underground Coal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to assure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for Proximity Detection Systems for Continuous Mining Machines in Underground Coal Mines.

DATES: All comments must be received on or before January 23, 2018.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below.

- *Federal E-Rulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments for docket number MSHA-2017-0033.

- *Regular Mail:* Send comments to USDOL-MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, VA 22202-5452.

- *Hand Delivery:* USDOL-Mine Safety and Health Administration, 201 12th Street South, Suite 4E401, Arlington, VA 22202-5452. Sign in at the receptionist's desk on the 4th floor via the East elevator.

FOR FURTHER INFORMATION CONTACT: Sheila McConnell, Director, Office of

Standards, Regulations, and Variances, MSHA, at MSHA.information.collections@dol.gov (email); (202) 693-9440 (voice); or (202) 693-9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. Section 813(h), authorizes MSHA to collect information necessary to carry out its duties in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811, authorizes the Secretary of Labor (Secretary) to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal or other mines.

On January 15, 2015, MSHA published a final rule that requires underground coal mine operators to equip continuous mining machines, except full-face continuous mining machines, with proximity detection systems (80 FR 2188). Miners working near continuous mining machines face pinning, crushing, and striking hazards that result in accidents involving life-threatening injuries and death.

Proximity detection is a technology that uses electronic sensors to detect the motion or the location of one object relative to another. Proximity detection systems provide a warning and stop mining machines before a pinning, crushing, or striking accident occurs that could result in injury or death to a miner. The information collections contained in this final rule were approved under the Paperwork Reduction Act of 1995 (PRA).

Title 30 CFR 75.1732(d)(1) requires at the completion of the check of the machine-mounted components of the proximity detection system under section 75.1732(c)(1), a certified person under section 75.100 must certify by initials, date, and time that the check was conducted. Defects found as a result of the check, including corrective actions and dates of corrective actions, must be recorded.

Section 75.1732(d)(2) requires the operator to make a record of the defects found as a result of the checks of miner-wearable components required under section 75.1732(c)(2), including corrective actions and dates of corrective actions.

Section 75.1732(d)(3) requires the operator to make a record of the persons trained in the installation and maintenance of proximity detection systems under section 75.1732(b)(6).

Section 75.1732(d)(4) requires the records to be maintained in a secure book or electronically in a secure computer system not susceptible to alteration.

Section 75.1732(d)(5) requires records to be retained for a period of at least one year and that they be made available for inspection by authorized representatives of the Secretary and representatives of miners.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection related to Proximity Detection Systems for Continuous Mining Machines in Underground Coal Mines. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The information collection request will be available on <http://www.regulations.gov>. MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on www.regulations.gov and www.reginfo.gov.

The public may also examine publicly available documents at USDOL-Mine Safety and Health Administration, 201 12th South, Suite 4E401, Arlington, VA 22202-5452. Sign in at the receptionist's desk on the 4th floor via the East elevator.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

III. Current Actions

This request for collection of information contains provisions for Proximity Detection Systems for Continuous Mining Machines in

Underground Coal Mines. MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219-0148.

Affected Public: Business or other for-profit.

Number of Respondents: 209.

Frequency: On occasion.

Number of Responses: 291,137.

Annual Burden Hours: 828 hours.

Annual Respondent or Recordkeeper Cost: \$0.

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

Sheila McConnell,

Certifying Officer.

[FR Doc. 2017-25426 Filed 11-22-17; 8:45 am]

BILLING CODE 4510-43-P

OFFICE OF MANAGEMENT AND BUDGET

Designation of Databases for Treasury's Working System Under the Do Not Pay Initiative

AGENCY: Office of Management and Budget.

ACTION: Notice of designation.

SUMMARY: Section 5(b)(1)(B) of the Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA) provides that the Director of the Office of Management and Budget (OMB), in consultation with agencies, may designate additional databases for inclusion under the Do Not Pay (DNP) Initiative. IPERIA further requires OMB to provide public notice and an opportunity for comment prior to designating additional databases. In fulfillment of this requirement, on September 13, 2017, OMB published a Notice of Proposed Designation (82 FR 43041) for six additional databases. OMB did not receive any comments during the 30-day comment period for this notice. Effective immediately OMB designates the following six databases: (1) The Department of the Treasury's (Treasury) Office of Foreign Assets Control's Specially Designated Nationals List (OFAC List), (2) data from the General Services Administration's

(GSA) System for Award Management (SAM) sensitive financial data from entity registration records (including those records formerly housed in the legacy Excluded Parties List System), (3) the Internal Revenue Service's (IRS) Automatic Revocation of Exemption List (ARL), (4) the IRS's Exempt Organizations Select Check (EO Select Check), (5) the IRS's e-Postcard database, and (6) the commercial database American InfoSource (AIS) Deceased Data for inclusion in the Do Not Pay Initiative.

FOR FURTHER INFORMATION CONTACT: Brian Nichols at the OMB Office of Federal Financial Management at 202-395-3993.

Mark Reger,

Deputy Controller.

[FR Doc. 2017-25416 Filed 11-22-17; 8:45 am]

BILLING CODE 3110-01-P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52-025 and 52-026; NRC-2008-0252]

Southern Nuclear Operating Company, Inc., Vogtle Electric Generating Plant, Units 3 and 4; Fire Protection System Piping That Must Remain Functional Following a Safe Shutdown Earthquake

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption and combined license amendment; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is granting an exemption to allow a departure from the certification information of Tier 1 of the generic design control document (DCD) and is issuing License Amendment Nos. 92 and 91 to Combined Licenses (COL), NPF-91 and NPF-92, respectively. The COLs were issued to Southern Nuclear Operating Company, Inc., and Georgia Power Company, Oglethorpe Power Corporation, MEAG Power SPVM, LLC, MEAG Power SPVJ, LLC, MEAG Power SPVP, LLC, Authority of Georgia, and the City of Dalton, Georgia (the licensee); for construction and operation of the Vogtle Electric Generating Plant (VEGP) Units 3 and 4, located in Burke County, Georgia.

The granting of the exemption allows the changes to Tier 1 information asked for in the amendment. Because the acceptability of the exemption was determined in part by the acceptability of the amendment, the exemption and amendment are being issued concurrently.

DATES: The exemption and amendment were issued on October 20, 2017.

ADDRESSES: Please refer to Docket ID NRC-2008-0252 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2008-0252. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; email: Carol.Gallagher@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. The request for the amendment and exemption was submitted by letter dated May 5, 2017 (ADAMS Accession No. ML17128A120).

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Chandu Patel, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-3025; email: Chandu.Patel@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is granting an exemption from paragraph B of section III, "Scope and Contents," of appendix D, "Design Certification Rule for the AP1000," to part 52 of title 10 of the *Code of Federal Regulations* (10 CFR), and issuing License Amendment Nos. 92 and 91 to COLs, NPF-91 and NPF-92, respectively, to the licensee. The exemption is required by paragraph A.4 of section VIII, "Processes for Changes and Departures," appendix D, to 10 CFR part 52 to allow the licensee to depart

from Tier 1 information. With the requested amendment, the licensee sought proposed changes to the Updated Final Safety Analysis Report in the form of departures from the incorporated plant-specific DCD Tier 2 information and involves changes to COL Appendix C. The proposed changes more clearly define the boundaries and seismic requirements for the portion of the fire protection system that is required to remain functional following a safe shutdown earthquake.

Part of the justification for granting the exemption was provided by the review of the amendment. Because the exemption is necessary in order to issue the requested license amendment, the NRC granted the exemption and issued the amendment concurrently, rather than in sequence. This included issuing a combined safety evaluation containing the NRC staff's review of both the exemption request and the license amendment. The exemption met all applicable regulatory criteria set forth in §§ 50.12, 52.7, and section VIII.A.4 of appendix D to 10 CFR part 52. The license amendment was found to be acceptable as well. The combined safety evaluation is available in ADAMS under Accession No. ML17270A262.

Identical exemption documents (except for referenced unit numbers and license numbers) were issued to the licensee for VEGP Units 3 and 4 (COLs NPF-91 and NPF-92). The exemption documents for VEGP Units 3 and 4 can be found in ADAMS under Accession Nos. ML17270A183 and ML17270A184, respectively. The exemption is reproduced (with the exception of abbreviated titles and additional citations) in Section II of this document. The amendment documents for COLs NPF-91 and NPF-92 are available in ADAMS under Accession Nos. ML17270A185 and ML17270A187, respectively. A summary of the amendment documents is provided in Section III of this document.

II. Exemption

Reproduced below is the exemption document issued to VEGP Units 3 and Unit 4. It makes reference to the combined safety evaluation that provides the reasoning for the findings made by the NRC (and listed under Item 1) in order to grant the exemption:

1. In a letter dated May 5, 2017, the licensee requested from the Commission an exemption to allow departures from Tier 1 information in the certified DCD incorporated by reference in 10 CFR part 52, appendix D, as part of license amendment request 17-013, "Fire Protection System (FPS) Piping That

Must Remain Functional Following a Safe Shutdown Earthquake."

For the reasons set forth in Section 3.1 of the NRC staff's Safety Evaluation, which can be found in ADAMS under Accession No. ML17270A262, the Commission finds that:

A. The exemption is authorized by law;

B. the exemption presents no undue risk to public health and safety;

C. the exemption is consistent with the common defense and security;

D. special circumstances are present in that the application of the rule in this circumstance is not necessary to serve the underlying purpose of the rule;

E. the special circumstances outweigh any decrease in safety that may result from the reduction in standardization caused by the exemption; and

F. the exemption will not result in a significant decrease in the level of safety otherwise provided by the design.

2. Accordingly, the licensee is granted an exemption from the certified DCD Tier 1 information, with corresponding changes to Appendix C of the Facility Combined License as described in the licensee's request dated May 5, 2017. This exemption is related to, and necessary for the granting of License Amendment No. 92 (Unit 3) and 91 (Unit 4), which is being issued concurrently with this exemption.

3. As explained in Section 5.0 of the NRC staff's Safety Evaluation (ADAMS Accession No. ML17270A262), this exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment needs to be prepared in connection with the issuance of the exemption.

4. This exemption is effective as of the date of its issuance.

III. License Amendment Request

By letter dated May 5, 2017 (ADAMS Accession No. ML17128A120), the licensee requested that the NRC amend the COLs for VEGP, Units 3 and 4, COLs NPF-91 and NPF-92. The proposed amendment is described in Section I of this **Federal Register** notice.

The Commission has determined for these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or COL, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** on July 18, 2017 (82 FR 32884). No comments were received during the 30-day comment period.

The Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments.

IV. Conclusion

Using the reasons set forth in the combined safety evaluation, the staff granted the exemption and issued the amendment that the licensee requested on May 5, 2017.

The exemption and amendment were issued on October 20, 2017, as part of a combined package to the licensee (ADAMS Accession No. ML17270A181).

Dated at Rockville, Maryland, this 20th day of November, 2017.

For the Nuclear Regulatory Commission.

Jennifer L. Dixon-Herrity,

Chief, Licensing Branch 4, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. 2017-25403 Filed 11-22-17; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[License Nos. IW009/03 and XW015/01; Docket Nos. 11005789 and 11005149; Docket ID NRC-2017-0222]

AREVA Inc.; Import And Export License Amendment Applications

AGENCY: Nuclear Regulatory Commission.

ACTION: Import And Export License Amendment Applications; opportunity to comment, request a hearing, and petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received and is considering issuing import and export license amendments, IW009/03 and XW015/01, requested by AREVA Inc., by applications submitted on August 9, 2017, and August 24, 2017. The request seeks the NRC's approval for an amendment of existing licenses to change the licensee name from AREVA NP Inc., to AREVA Inc., and approval to extend the expiration dates for these two licenses.

DATES: Submit comments by December 26, 2017. Requests for a hearing or a petition for leave to intervene must be filed by December 26, 2017.

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

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2017-0222. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; email: Carol.Gallagher@nrc.gov. For technical questions contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Email comments to:* Hearingdocket@nrc.gov. If you do not receive an automatic email reply confirming receipt, then contact us at 301-415-1677.

- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301-415-1101.

- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301-415-1677.

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

FOR FURTHER INFORMATION CONTACT: Gary Langlie, Office of International Programs, telephone: 301-287-9076, email: Gary.Langlie@nrc.gov, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

You may obtain publicly-available information related to these import and export license amendment applications from AREVA Inc., by the following methods:

- *Federal rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2017-0222.
- *NRC's public Web site:* Go to <http://www.nrc.gov> and search for IW009/03 or XW015/01, Docket No. 11005149 or 11005789, Docket ID NRC-2017-0222, ADAMS Accession Nos. ML17234A650 or ML17257A128.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the

ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to pdr.resource@nrc.gov. The import and export license amendment applications from AREVA Inc., are available in ADAMS under Accession Nos. ML17234A650 and ML17257A128; and additional information is available in ADAMS under IW009/03 and XW015/01; and under Docket Nos. 11005149 and 11005789.

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC-2017-0222 in your comment submission.

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

The NRC does not routinely edit comment submissions to remove identifying or contact information.

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

II. Discussion

In accordance with 10 CFR 110.70(b), the NRC is noticing the receipt of import and export license amendment applications submitted by AREVA Inc. on August 9, 2017, and August 24, 2017, for the import and export of radioactive waste from Germany to the State of Washington, and the return of certain wastes to Germany. This request comes as the result of a company reorganization and name change, detailed in a 2014 letter submitted by AREVA Inc. (ML14129A013). AREVA Inc. has submitted these amendment requests to: (1) Address the company name change, (2) update the licensee

point of contact, and (3) extend the expiration dates of these two licenses.

The current import license—IW009 Amendment No. 2 (ML103010568)—authorizes the import of Class A radioactive waste contaminants on combustible materials from Advanced Nuclear Fuels GmbH in Germany to Richland, Washington. In Washington, the materials will be incinerated and processed to recover uranium. The associated export license—XW015 (ML101760056)—authorizes the export of Class A radioactive waste contaminants on non-combustible material to the Advanced Nuclear Fuels GmbH facility in Germany.

The NRC is opening the opportunity for public comment and opening the opportunity to file a request for a

hearing or petition for leave to intervene with respect to these proposed amendments for 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant; the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555; and the Executive Secretary, U.S. Department of State, Washington, DC 20520. Hearing requests and intervention petitions must include the information specified in 10 CFR 110.82(b).

A request for a hearing or petition for leave to intervene may be filed with the

NRC electronically in accordance with NRC's E-Filing rule promulgated in August 2007 (72 FR 49139; August 28, 2007). Information about filing electronically is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. To ensure timely electronic filing, at least 5 days prior to the filing deadline, the petitioner/requestor should contact the Office of the Secretary by email at hearingdocket@nrc.gov, or by calling 301-415-1677, to request a digital ID certificate and allow for the creation of an electronic docket.

The information concerning these applications for import and export license amendment follows.

NRC IMPORT AND EXPORT LICENSE AMENDMENT APPLICATIONS

[Description of material]

Name of applicant, date of application(s), date(s) received, application no(s), docket no(s), ADAMS accession no(s).	Material type	Total quantity	End use	Country(ies)
AREVA Inc., August 9, 2017, August 24, 2017, August 21, 2017, September 11, 2017, IW009/03, XW015/01, 11005149, 11005789, ML17234A650, ML17256A016, ML17285A013, (Supporting e-mail).	No change in material (Class A Radioactive Waste).	No change in quantity (up to a maximum total of 36 kilograms of uranium-235 contained in 1,200 kilograms uranium enriched to 5.0 WGT% maximum).	Amend to change the licensee name and point of contact, and extend validity of the license. No other changes to the existing import and export licenses (IW009 and XW015, and subsequent amendments) are requested. IW009, and subsequent amendments, currently authorize the import of Class A Radioactive Waste contaminants on combustible materials for incineration and recovery of the contained uranium. XW015, and subsequent amendments, currently authorize the export (return) of any contaminated non-combustibles recovered to Germany.	from/to Germany.

Dated at Rockville, Maryland, this 20th day of November, 2017.

For The Nuclear Regulatory Commission.

David L. Skeen,

Deputy Director, Office of International Programs.

[FR Doc. 2017-25391 Filed 11-22-17; 8:45 am]

BILLING CODE 7590-01-P

domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of notice required under 39 U.S.C. 3642(d)(1):* November 24, 2017.

FOR FURTHER INFORMATION CONTACT:

Elizabeth A. Reed, 202-268-3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 17, 2017, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express, Priority Mail, & First-Class Package Service Contract 27 to Competitive Product List*. Documents

are available at www.prc.gov, Docket Nos. MC2018-29, CP2018-58.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017-25342 Filed 11-22-17; 8:45 am]

BILLING CODE 7710-12-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82107; File No. SR-BatsEDGX-2017-50]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use on Cboe EDGX Exchange, Inc.

November 17, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the

POSTAL SERVICE

Product Change—Priority Mail Express, Priority Mail, & First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a

“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 8, 2017, Cboe EDGX Exchange, Inc. (formerly known as Bats EDGX Exchange, Inc.) (the “Exchange” or “EDGX”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act³ 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 Members⁵ and non-Members of the Exchange pursuant to EDGX Rules 15.1(a) and (c).

The text of the proposed rule change is available at the Exchange’s Web site at www.markets.cboe.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify the Fee Schedule applicable to the Exchange’s equity options platform (“EDGX Options”) to modify the existing tiered pricing structure on EDGX Options and adopt new tiers consistent with such tiered pricing, to adopt tiered pricing applicable to complex orders on EDGX Options, and to modify the Marketing Fees section of the Fee Schedule.⁶

Existing Tiered Pricing Structure

Customer Volume Tiers

The Exchange charges various reduced fees or enhanced rebates using a tiered pricing structure pursuant to footnotes set forth on the Fee Schedule. Under the tiers, Members that achieve certain volume criteria may qualify for reduced fees or enhanced rebates for their orders. As set forth in footnote 1, the Exchange offers enhanced rebates to qualifying Members for Customer⁷ orders pursuant to certain Customer Volume Tiers. The Exchange proposes to modify rebate provided and the criteria necessary to achieve Customer Volume Tier 4 and to adopt a new Customer Volume Tier 5.

Fee codes PC and NC are currently appended to all Customer orders in Penny Pilot Securities⁸ and Non-Penny Pilot Securities,⁹ respectively, and result in a standard rebate of \$0.05 per contract. The Customer Volume Tiers in footnote 1 consist of four separate tiers, each providing an enhanced rebate to a Member’s Customer order that yields fee codes PC or NC upon satisfying monthly volume criteria required by the respective tier. For instance, pursuant to Customer Volume Tier 1, the lowest volume tier, a Member will currently receive a rebate of \$0.10 per contract

⁶ The Exchange initially filed the proposed rule changes on November 1, 2017 (SR-BatsEDGX-2017-49). On November 8, 2017 the Exchange withdrew SR-BatsEDGX-2017-49 and then subsequently submitted this filing (SR-BatsEDGX-2017-50).

⁷ “Customer” applies to any transaction identified by a Member for clearing in the Customer range at the OCC, excluding any transaction for a Broker Dealer or a “Professional” as defined in Exchange Rule 16.1. See the Exchange’s Fee Schedule available at: https://markets.cboe.com/us/options/membership/fee_schedule/edgx/.

⁸ “Penny Pilot Securities” are those issues quoted pursuant to Exchange Rule 21.5, Interpretation and Policy .01. *Id.*

⁹ The term “Non-Penny Pilot Security” applies to those issues that are not Penny Pilot Securities quoted pursuant to Exchange Rule 21.5, Interpretation and Policy .01.

where the Member has an ADV¹⁰ in Customer orders equal to or greater than 0.20% of average OCV.¹¹

Pursuant to Customer Volume Tier 4, a Member currently will receive a rebate of \$0.21 per contract where: (i) The Member has an ADV in Customer orders equal to or greater than 0.05% of average OCV; and (ii) the Member has an ADV in Customer or Market Maker orders equal to or greater than 0.35% of average OCV. To encourage the entry of additional orders, the Exchange proposes to modify the first prong of the criteria necessary to achieve Customer Volume Tier 4 to require that the Member has an ADV in Customer orders equal to or greater than 0.15% of average OCV. The Exchange does not propose to modify the second prong, requiring the Member to have an ADV in Customer or Market Maker orders equal to or greater than 0.35% of average OCV. The Exchange also proposes to reduce the enhanced rebate provided under Customer Volume Tier 4 from a rebate of \$0.21 per contract to a rebate of \$0.16 per contract.

The Exchange also proposes to offer an additional Customer Volume Tier, Customer Volume Tier 5, to provide Members with another way to achieve the highest rebate for Customer orders, a rebate of \$0.21 per contract.¹² The Exchange proposes to adopt criteria for Tier 5 such that the enhanced rebate of \$0.21 per contract is provided to Members that have: (i) An ADV in Customer orders equal to or greater than 0.30% of average OCV; and (ii) an ADV in Customer or Market Maker orders equal to or greater than 0.50% of average OCV.

Market Maker Volume Tiers

As set forth in footnote 2, the Exchange offers enhanced rebates to qualifying Members for Market Maker¹³

¹⁰ “ADV” means average daily volume calculated as the number of contracts added or removed, combined, per day. Additional details regarding the calculation of ADV are contained on the Exchange’s Fee Schedule. See the Exchange’s Fee Schedule available at: https://markets.cboe.com/us/options/membership/fee_schedule/edgx/.

¹¹ “OCV” stands for “OCC Customer Volume” and means the total equity and ETF options volume that clears in the Customer range at the OCC for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption and on any day with a scheduled early market close. See *id.*

¹² A rebate of \$0.21 per contract will continue to be available to Members that achieve the criteria for Customer Volume Tier 3, which the Exchange has not proposed to modify, but will no longer be available through Customer Volume Tier 4.

¹³ “Market Maker” applies to any transaction identified by a Member for clearing in the Market Maker range at the OCC, where such Member is registered with the Exchange as a Market Maker as defined in Rule 16.1(a)(37). See the Exchange’s Fee

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).

orders pursuant to certain Market Maker Volume Tiers. The Exchange proposes to modify the criteria necessary to achieve Market Maker Volume Tiers 7 and 8.

Fee codes PM and NM are currently appended to all Market Maker orders in Penny Pilot Securities and Non-Penny Pilot Securities, respectively, and result in a standard fee of \$0.19 per contract. The Market Maker Volume Tiers in footnote 2 consist of eight separate tiers, each providing a reduced fee or rebate to a Member's Market Maker order that yields fee codes PM or NM upon satisfying the monthly volume criteria required by the respective tier. For instance, pursuant to Market Maker Volume Tier 1, the lowest volume tier, a Member will currently be charged a reduced fee of \$0.16 per contract where the Member has an ADV in Market Maker orders equal to or greater than 0.05% of average OCV.

Pursuant to Market Maker Volume Tier 7, a Member will currently be charged a reduced fee of \$0.03 per contract where the Member has an ADV in: (i) Customer orders equal to or greater than 0.05% of average OCV; and (ii) Customer or Market Maker orders equal to or greater than 0.35% of average OCV. To encourage the entry of additional orders to the Exchange, the Exchange proposes to modify the first prong of the criteria necessary to achieve Market Maker Volume Tier 7 to require that the Member has an ADV in Customer orders equal to or greater than 0.15% of average OCV. The Exchange does not propose to modify the second prong, requiring the Member to have an ADV in Customer or Market Maker orders equal to or greater than 0.35% of average OCV.

Pursuant to Market Maker Volume Tier 8, a Member will currently be charged a reduced fee of \$0.02 per contract where the Member has an ADV in: (i) Customer orders equal to or greater than 0.05% of average OCV; (ii) Customer or Market Maker orders equal to or greater than 0.35% of average OCV; and (iii) BAM Agency Orders¹⁴ equal to or greater than 10,000 contracts. The Exchange proposes to modify each of these criteria as follows: increase the ADV requirement of the first prong to 0.30% of average OCV, increase the ADV requirement of the second prong to 0.50% of average OCV, and increase the

ADV requirement of the third prong to 25,000 contracts. In addition, the Exchange proposes to adopt a new prong also necessary to qualify for Market Maker Volume Tier 8, which is intended to incentivize the entry of complex orders to the Exchange. Specifically, in order to qualify for Market Maker Volume Tier 8, the Exchange also proposes to require a Member to have an ADV in complex Customer orders (yielding fee codes ZA, ZB, ZC, or ZD) equal to or greater than 5,000 contracts.

Thus, as proposed, pursuant to Market Maker Volume Tier 8, a Member will be charged a reduced fee of \$0.02 per contract where the Member has an ADV in: (i) Customer orders equal to or greater than 0.30% of average OCV; (ii) Customer or Market Maker orders equal to or greater than 0.50% of average OCV; (iii) BAM Agency Orders equal to or greater than 25,000 contracts; and (iv) complex Customer orders (yielding fee codes ZA, ZB, ZC, or ZD) equal to or greater than 5,000 contracts.

Tiered Pricing—Complex Orders

The Exchange recently began accepting complex orders in connection with the launch of the EDGX Options complex order book ("COB").¹⁵ In turn, the Exchange adopted base fees and rebates applicable to complex orders to accommodate the acceptance of complex orders.¹⁶ The Exchange now proposes to adopt various tiers to incentivize the entry of complex orders to the Exchange. As noted above, the Exchange also proposes to add criteria to existing Market Maker Volume Tier 8 to incentivize the entry of complex orders to the Exchange.

Customer Volume Tiers—Complex Orders

Under the recently adopted fees, the Exchange applies fee code ZA to Customer complex orders that are executed on the COB with a non-Customer¹⁷ as the contra-party in Penny Pilot Securities and provides such orders a standard rebate of \$0.47 per contract. Similarly, the Exchange applies fee code ZB to Customer complex orders that are executed on the COB with a non-Customer as the contra-party in Non-Penny Pilot Securities and

provides such orders a standard rebate of \$0.97 per contract.

The Exchange proposes to adopt two sets of tiers applicable to the Customer Volume Tiers under footnote 1 that would provide enhanced rebates for orders yielding fee codes ZA and ZB.

The Exchange proposes to provide enhanced rebates for orders yielding fee code ZA (*i.e.*, Customer complex orders executed on the COB/non-Customer contra-party/Penny Pilot Securities) under Tiers 1 through 3. As proposed, pursuant to Tier 1 the Exchange would provide an enhanced rebate of \$0.48 per contract for Members with an ADV in Customer orders equal to or greater than 0.30% of average OCV. Pursuant to Tier 2 the Exchange would provide an enhanced rebate of \$0.49 per contract for Members with an ADV in Customer orders equal to or greater than 0.40% of average OCV. Pursuant to Tier 3 the Exchange would provide an enhanced rebate of \$0.50 per contract for Members with an ADV in Customer orders equal to or greater than 0.65% of average OCV.

The Exchange proposes to provide enhanced rebates for orders yielding fee code ZB (*i.e.*, Customer complex orders executed on the COB/non-Customer contra-party/Non-Penny Pilot Securities) under Tiers 1 through 3 with criteria identical to that described above with respect to tiers applicable to fee code ZA (but rebates that are an enhancement to the standard rebate for orders yielding fee code ZB). Thus, pursuant to Tier 1 the Exchange would provide an enhanced rebate of \$0.98 per contract for Members with an ADV in Customer orders equal to or greater than 0.30% of average OCV. Pursuant to Tier 2 the Exchange would provide an enhanced rebate of \$0.99 per contract for Members with an ADV in Customer orders equal to or greater than 0.40% of average OCV. Pursuant to Tier 3 the Exchange would provide an enhanced rebate of \$1.00 per contract for Members with an ADV in Customer orders equal to or greater than 0.65% of average OCV.

In connection with these changes, the Exchange proposes to append footnote 1 to fee codes ZA and ZB on the Fee Codes and Associated Fees table of the Fee Schedule.

Market Maker Volume Tiers—Complex Orders

Under the recently adopted fees, the Exchange applies fee code ZM to Market Maker complex orders that are executed on the COB with a Customer as the contra-party in Penny Pilot Securities and charges such orders a standard fee of \$0.50 per contract. The Exchange applies fee code ZN to Market Maker complex orders that are executed on the

Schedule available at: https://markets.cboe.com/us/options/membership/fee_schedule/edgx/.

¹⁴ BAM Agency Orders are orders represented as agent by a Member on behalf of another party and submitted to BAM for potential price improvement pursuant to Rule 21.19. See the Exchange's Fee Schedule available at: https://markets.cboe.com/us/options/membership/fee_schedule/edgx/.

¹⁵ See Securities Exchange Act Release No. 81891 (October 17, 2017) (SR-BatsEDGX-2017-29) (order approving rules for EDGX complex order book).

¹⁶ The Exchange initially filed to adopt complex order pricing on October 23, 2017 (SR-BatsEDGX-2017-42). On October 31, 2017 the Exchange withdrew SR-BatsEDGX-2017-42 and submitted a filing to replace such filing (SR-BatsEDGX-2017-48).

¹⁷ "Non-Customer" applies to any transaction that is not a Customer order. *Id.*

COB with a Customer as the contra-party in Non-Penny Pilot Securities and charges such orders a standard fee of \$1.10 per contract.

Similar to the new tiers proposed for footnote 1 as described above, the Exchange proposes to adopt new tiers under footnote 2 applicable to fee codes ZM and ZN, respectively. The Exchange proposes to adopt a single tier applicable to fee code ZM, Tier 1, under which the Exchange would charge a reduced fee of \$0.48 per contract for Members with an ADV in complex Customer orders (yielding fee codes ZA, ZB, ZC, or ZD) equal to or greater than 10,000 contracts. The Exchange proposes a similar tier applicable to fee code ZN, again Tier 1, under which the Exchange would charge a reduced fee of \$1.05 per contract for Members with an ADV in complex Customer orders (yielding fee codes ZA, ZB, ZC, or ZD) equal to or greater than 10,000 contracts.

In connection with these changes, the Exchange proposes to append footnote 2 to fee codes ZM and ZN on the Fee Codes and Associated Fees table of the Fee Schedule.

Marketing Fees

The Fee Schedule currently contains a section entitled "Marketing Fees" that specifies that marketing fees are charged to all Market Makers who are counterparties to a trade with a Customer. In connection with the recent adoption of fees applicable to complex orders, the Exchange specified that marketing fees shall not apply to executions of complex orders on the COB.¹⁸ The Exchange proposes to extend this exclusion to orders subject to BAM Pricing set forth in footnote 6 and Qualified Contingent Cross Orders. The Exchange notes with respect to the proposed language regarding BAM Pricing that certain orders executed through BAM are assessed standard fee rates as set forth in footnote 6 and that marketing fees will continue to be assessed for such transactions. Accordingly, the Exchange has proposed to limit the exclusion from marketing fees being assessed to those orders that are subject to BAM Pricing and not all orders executed through BAM.

Implementation Date

The Exchange proposes to implement the proposed changes immediately.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the

rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.¹⁹ Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,²⁰ in that it provides for the equitable allocation of reasonable dues, fees and other charges among Members and other persons using any facility or system which the Exchange operates or controls.

In sum, the Exchange believes that the proposed fee and rebate structure is designed to promote the growth of EDGX Options, including the EDGX Options COB, which benefits all market participants by providing additional trading opportunities. The goal is to attract both Customers and liquidity providers and an increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow originating from other market participants.

Volume-based rebates such as those currently maintained on the Exchange have been widely adopted by options exchanges and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to the value of an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns, and introduction of higher volumes of orders into the price and volume discovery processes. The proposed modifications to the existing Customer Volume Tiers and Market Maker Volume tiers that make such tiers more difficult to attain are each intended to incentivize Members to send additional Customer and/or Market Maker orders to the Exchange, and in the case of Market Maker Volume Tier 8, also to encourage the submission of complex orders to the Exchange in an effort to qualify or continue to qualify for the enhanced rebate or lower fee made available by the tiers. With respect to the reduction of the rebate provided for Customer Volume Tier 4, this change is reasonable, fair and equitable because the Exchange is adopting an additional Tier, Tier 5, as another means to achieve the rebate previously provided by Tier 4 (in addition to Tier 3, which also provides such rebate and remains unchanged). With respect to Tier 5, the Exchange believes this Tier is reasonable, equitably allocated and non-discriminatory for the reasons set forth

regarding tiered pricing generally, and also because the proposed tier is consistent with existing Tier 4 (which the Exchange has proposed to modify), only with higher criteria and a higher rebate as an incentive to achieve such criteria.

The Exchange's recent launch of a complex order book is a competitive offering, and the Exchange believes it is necessary to adopt certain incentives to encourage Members to enter complex orders to the Exchange. In particular, the Exchange believes that incentivizing the submission of Customer orders to the Exchange, including the Exchange's COB, will help to grow participation in the COB generally, and that providing enhanced rebates and reduced fees for such participation will help to grow liquidity on the COB to the benefit of all participants on the Exchange. The proposed criteria for each tier applicable to complex orders is in-line with existing criteria on the Exchange as well as criteria proposed herein, and does not represent a significant departure in pricing applied by the Exchange. Similarly, the enhanced rebates and reduced fees provide modest incentives to Members to increase their participation on the Exchange generally, including the submission of complex orders.

The Exchange believes that the proposed tiers are reasonable, fair and equitable, and non-discriminatory, for the reasons set forth above with respect to volume-based pricing generally and because such changes will incentivize participants to further contribute to market quality. The proposed tiers will provide an additional way for market participants to qualify for enhanced rebates or reduced fees. Further, the COB is fully available to all Members, and the proposed thresholds are intended to encourage Members to do the development work necessary to participate on the COB and send complex orders to the Exchange.

Continuing to provide Customer orders a rebate for complex orders, including a potentially enhanced rebate, while assessing Non-Customers a fee for complex orders, is reasonable because of the desirability of Customer activity. The proposed fees and rebates for complex orders continue to be intended to encourage greater Customer volume on the Exchange. As set forth above, Customer activity enhances liquidity on the Exchange for the benefit of all market participants and benefits all market participants by providing more trading opportunities, which attracts market makers and other liquidity providers. The fee and rebate schedule as proposed continues to reflect

¹⁸ See *supra*, note 16.

¹⁹ 15 U.S.C. 78f.

²⁰ 15 U.S.C. 78f(b)(4).

differentiation among different market participants typically found in options fee and rebate schedules.²¹ The Exchange believes that the differentiation is reasonable and notes that unlike others (e.g., Customers) some market participants like EDGX Options Market Makers commit to various obligations. For example, transactions of an EDGX Options Market Maker must constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and Market Makers should not make bids or offers or enter into transactions that are inconsistent with such course of dealings.²² Further, all Market Makers are designated as specialists on EDGX Options for all purposes under the Act or rules thereunder.²³

Continuing to provide a rebate for Customer orders and a fee for Non-Customer Orders is also equitable and not unfairly discriminatory. This is because the Exchange's proposal to provide rebates and assess fees will apply the same to all similarly situated participants. Moreover, all similarly situated complex orders are subject to the same proposed Fee Schedule, and access to the Exchange is offered on terms that are not unfairly discriminatory. Similarly, the Exchange believes that providing different rates for Penny Pilot Securities and Non-Penny Pilot Securities is well-established in the options industry, including on the Exchange's current fee schedule.²⁴ The Exchange believes it is reasonable, equitably allocated and non-discriminatory to impose higher fees and provide higher rebates in Non-Penny Pilot Securities than Penny Pilot Securities because Penny Pilot Securities and Non-Penny Pilot Securities have different liquidity, spread and trading characteristics. In particular, spreads in Penny Pilot Securities are tighter than those in Non-Penny Pilot Securities (which trade in increments of \$0.05 or greater). The wider spreads in Non-Penny Pilot

Securities allow for greater profit potential.

In connection with the adoption of fees applicable to complex orders, the Exchange modified the description of Marketing Fees applicable on the Exchange to make clear that such fees do not apply to complex orders.²⁵ The Exchange proposes to expand the exclusions listed in this section to also exclude orders subject to BAM Pricing set forth in footnote 6 and Qualified Contingent Cross Orders. The Exchange believes this proposal is a reasonable and equitable allocation of fees and dues and is not unreasonably discriminatory because the rates for Market Makers for orders subject to BAM Pricing and Qualified Contingent Cross Orders are more reasonable and equitably allocated as an all-inclusive rate but would increase such rates to a level higher than that paid by other non-Customers if Marketing Fees were also assessed on such transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe the proposed fee changes would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed tiered pricing structure, including the tiered pricing structure for complex orders, represents a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Rather, the Exchange believes the proposal will enhance competition as it is a competitive proposal that seeks to further the growth of the Exchange by encouraging Members to enter orders to the Exchange, including Customer orders generally and complex orders.

The Exchange's proposal to adopt complex order functionality was a competitive response to complex order books operated by other options exchanges. The Exchange believes this proposed rule change is necessary to permit fair competition among the options exchanges. While the proposed fees and rebates are intended to attract participation on the Exchange, particularly complex orders, the Exchange does not believe that its proposed pricing significantly departs from pricing in place on other options exchanges that accept complex orders. Accordingly, the Exchange does not believe that the proposal creates an undue burden on inter-market competition.

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the proposed charges assessed and credits available to Members under the proposed tiered pricing structure do not impose a burden on competition because the Exchange's execution services are completely voluntary and subject to extensive competition. If the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result and/or will be unable to attract participants to the Exchange or the COB. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets. Additionally, the changes proposed herein are pro-competitive to the extent that they allow the Exchange to promote and maintain the COB, which has the potential to result in efficient executions to the benefit of market participants.

The Exchange believes that the proposed change would increase both inter-market and intra-market competition by incentivizing members to direct their orders, and particularly Customer orders, to the Exchange, which benefits all market participants by providing more trading opportunities, which attracts Market Makers. To the extent that there is a differentiation between proposed fees assessed and rebates offered to Customers as opposed to other market participants, the Exchange believes that this is appropriate because the fees and rebates should incentivize Members to direct additional order flow to the Exchange and thus provide additional liquidity that enhances the quality of its markets and increases the volume of

²¹ See the Exchange's Fee Schedule, available at: https://markets.cboe.com/us/options/membership/fee_schedule/edgx/; see also, e.g., MIA Fee Schedule, NYSE Amex Options Fee Schedule, BX Options Fee Schedule and Nasdaq Options Market Fee Schedule.

²² See Exchange Rule 22.5, entitled "Obligations of Market Makers".

²³ See Exchange Rule 22.2, entitled "Options Market Maker Registration and Appointment".

²⁴ See the Exchange's Fee Schedule, available at: https://markets.cboe.com/us/options/membership/fee_schedule/edgx/; see also, e.g., MIA Fee Schedule, NYSE Amex Options Fee Schedule.

²⁵ See *supra*, note 16.

contracts traded on the Exchange. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market liquidity. Enhanced market quality and increased transaction volume that results from the anticipated increase in order flow directed to the Exchange will benefit all market participants and improve competition on the Exchange.

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 Act²⁶ and paragraph (f) of Rule 19b-4 thereunder.²⁷ 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-BatsEDGX-2017-50 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.
- All submissions should refer to File Number SR-BatsEDGX-2017-50. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BatsEDGX-2017-50, and should be submitted on or before December 15, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁸

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-25352 Filed 11-22-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82114; File No. SR-BOX-2017-34]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 7050 (Minimum Trading Increments)

November 17, 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 November 8, 2017, BOX Options Exchange LLC (the "Exchange") filed with the Securities and Exchange Commission

("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule 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 7050 (Minimum Trading Increments). The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at <http://boxoptions.com>.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, BOX Rule 7050(a) establishes minimum trading increments for single leg options contracts traded on BOX. Rule 7050(a) states that with regard to minimum trading increments for single leg options contracts, "the following principles shall apply: (1) If the options contract is trading at less than \$3.00 per option, five (5) cents; (2) if the options contract is trading at \$3.00 per option or higher, ten (10) cents; and (3) if the options contract is traded pursuant to the procedures of the Improvement Period in Rules 7150 then one (1) cent." Further, BOX Rule 7050(b) establishes an exception³ to 7050(a) while Rule 7050(c) and (d) establish cross references to existing rules with

³ Rule 7050(b) states that "the Exchange will operate a pilot program to permit options classes to be quoted and traded in increments as low as one (1) cent."

²⁶ 15 U.S.C. 78s(b)(3)(A).

²⁷ 17 CFR 240.19b-4(f).

²⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

different minimum trading increments than those outlined in Rule 7050(a).⁴

The purpose of the proposed rule change is to amend Rule 7050 to establish a cross reference to an existing rule about minimum trading increments with regard to Complex Orders. Specifically, the Exchange proposes Rule 7050(e) which states that notwithstanding any provision of Rule 7050, the minimum trading increment for Complex Orders shall be determined in accordance with Rule 7240(b)(1).⁵ The Exchange notes that the proposed change will provide clarity with respect to the Exchange's minimum trading increment rule and how it relates to Complex Orders on the Exchange.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,⁶ in general, and Section 6(b)(5) of the Act,⁷ in particular, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general protect investors and the public interest. The Exchange believes it is appropriate to make the proposed change to its rules so that market participants and investors have a clear and accurate understanding of the meaning of the Exchange's rules. By adding the proposed language, the Exchange is eliminating any potential for confusion and ensuring that market participants, regulators and the public can more easily navigate the Exchange's Rulebook. The Exchange believes that the proposed rule change is not unfairly discriminatory because it treats all market participants equally and will not have an adverse impact on any market participant.

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 particular, the Exchange does not believe that the

proposal will impose a burden on intermarket competition because the proposed change simply attempts to clarify the Exchange rules and reduce any potential for investor confusion. Further, the Exchange does not believe that the proposed rule change imposes a burden on intramarket competition because the proposed provision applies to all market participants equally. As such, 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.

C. 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 comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁸ and Rule 19b-4(f)(6) thereunder.⁹

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act¹⁰ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)¹¹ 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 Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because the proposal will provide additional clarity to the Exchange's rules and reduce the potential for investor confusion. As noted above, BOX Rule 7050 establishes the

minimum trading increment for single options traded on the Exchange. The proposal modifies BOX Rule 7050 by adding a cross-reference to indicate that the trading increment for complex orders appears in existing BOX Rule 7240(b)(1). The Commission notes that the proposal does not modify the trading increment for complex orders. Accordingly, the Commission hereby waives the operative delay and designates the proposal as operative upon filing.¹²

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is 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-BOX-2017-34 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-BOX-2017-34. 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

¹² 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).

⁴ Rule 7050(c) states that "the minimum trading increment for Mini Options shall be determined in accordance with IM-5050-10(d) to BOX Rule 5050." Rule 7050(d) states that the minimum trading increment for Jumbo SPY Options shall be determined in accordance with Rule 5050(e)(4).

⁵ Bids and offers on Complex Orders may be expressed in any decimal price, and the leg(s) of a Complex Order may be executed in one cent increments, regardless of the minimum increments otherwise applicable to the individual legs of the order. See BOX Rule 7240(b)(1).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 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.

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ 17 CFR 240.19b-4(f)(6)(iii).

Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, on official business days between the hours of 10:00 a.m. and 3:00 p.m., located at 100 F Street NE., Washington, DC 20549. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BOX-2017-34 and should be submitted on or before December 15, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-25345 Filed 11-22-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32899; 812-14804]

Motley Fool Asset Management, LLC, et al.; Notice of Application

November 17, 2017

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c-1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(f) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act. The requested order would permit (a) index-based series of certain open-end management investment companies ("Funds") to issue shares redeemable in large aggregations only ("Creation Units"); (b) secondary market transactions in Fund shares to occur at negotiated market prices rather than at

net asset value ("NAV"); (c) certain Funds to pay redemption proceeds, under certain circumstances, more than seven days after the tender of shares for redemption; (d) certain affiliated persons of a Fund to deposit securities into, and receive securities from, the Fund in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the Funds ("Funds of Funds") to acquire shares of the Funds.

APPLICANTS: Motley Fool Asset Management, LLC (the "Initial Adviser"), a Delaware limited liability company registered as an investment adviser under the Investment Advisers Act of 1940; The RBB Fund, Inc. (the "Company"), a Maryland corporation registered under the Act as an open-end management investment company with multiple series; and Quasar Distributors, LLC (the "Distributor"), a Delaware limited liability company and broker-dealer registered under the Securities Exchange Act of 1934 ("Exchange Act").

DATES: The application was filed on July 21, 2017, and amended on October 20, 2017, and November 14, 2017.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 12, 2017, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Pursuant to rule 0-5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090; Applicants: The Initial Adviser, 2000 Duke Street, Suite 175, Alexandria, Virginia 22134; the Company, 615 East Michigan Street, 4th Floor, Milwaukee, Wisconsin 53202; the Distributor, 777 East Wisconsin Avenue, 6th Floor, Milwaukee, Wisconsin 53202.

FOR FURTHER INFORMATION CONTACT: Nick Cordell, Senior Counsel, at (202) 551-5496; or Holly Hunter-Ceci, Assistant

Chief Counsel, at (202) 551-6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at <http://www.sec.gov/search/search.htm> or by calling (202) 551-8090.

Summary of the Application

1. Applicants request an order that would allow Funds to operate as index exchange traded funds ("ETFs").¹ Fund shares will be purchased and redeemed at their NAV in Creation Units only. All orders to purchase Creation Units and all redemption requests will be placed by or through an "Authorized Participant", which will have signed a participant agreement with the Distributor. Shares will be listed and traded individually on a national securities exchange, where share prices will be based on the current bid/offer market. Any order granting the requested relief would be subject to the terms and conditions stated in the application.

2. Each Fund will hold investment positions selected to correspond closely to the performance of an underlying index. In the case of self-indexing Funds, an affiliated person, as defined in section 2(a)(3) of the Act ("Affiliated Person"), or an affiliated person of an Affiliated Person ("Second-Tier Affiliate"), of the Company or a Fund, of an Adviser, of any sub-adviser to or promoter of a Fund, or of the Distributor will compile, create, sponsor, or maintain the underlying index.²

3. Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited

¹ Applicants request that the order apply to the existing series of the Company that are index ETFs and any additional series of the Company, and any other open-end management investment company or series thereof, that may be created in the future (each, included in the term "Fund"), each of which will operate as an ETF and will track a specified index comprised of domestic or foreign equity and/or fixed income securities (each, an "Underlying Index"). Any Fund will (a) be advised by the Initial Adviser or an entity controlling, controlled by, or under common control with the Initial Adviser (each, an "Adviser") and (b) comply with the terms and conditions of the application.

² Each Self-Indexing Fund will post on its Web site the identities and quantities of the investment positions that will form the basis for the Fund's calculation of its NAV at the end of the day. Applicants believe that requiring Self-Indexing Funds to maintain full portfolio transparency will help address, together with other protections, conflicts of interest with respect to such Funds.

¹³ 17 CFR 200.30-3(a)(12).

circumstances specified in the application, purchasers will be required to purchase Creation Units by depositing specified instruments (“Deposit Instruments”), and shareholders redeeming their shares will receive specified instruments (“Redemption Instruments”). The Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund’s portfolio (including cash positions) except as specified in the application.

4. Because shares will not be individually redeemable, applicants request an exemption from section 5(a)(1) and section 2(a)(32) of the Act that would permit the Funds to register as open-end management investment companies and issue shares that are redeemable in Creation Units only.

5. Applicants also request an exemption from section 22(d) of the Act and rule 22c-1 under the Act as secondary market trading in shares will take place at negotiated prices, not at a current offering price described in a Fund’s prospectus, and not at a price based on NAV. Applicants state that (a) secondary market trading in shares does not involve a Fund as a party and will not result in dilution of an investment in shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants represent that share market prices will be disciplined by arbitrage opportunities, which should prevent shares from trading at a material discount or premium from NAV.

6. With respect to Funds that effect creations and redemptions of Creation Units in kind and that are based on certain Underlying Indexes that include foreign securities, applicants request relief from the requirement imposed by section 22(e) in order to allow such Funds to pay redemption proceeds within fifteen calendar days following the tender of Creation Units for redemption. Applicants assert that the requested relief would not be inconsistent with the spirit and intent of section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds.

7. Applicants request an exemption to permit Funds of Funds to acquire Fund shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any broker or dealer

registered under the Exchange Act, to sell shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act. The application’s terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over a Fund through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A) and (B) of the Act.

8. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act to permit persons that are Affiliated Persons, or Second-Tier Affiliates, of the Funds, solely by virtue of certain ownership interests, to effectuate purchases and redemptions in-kind. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions of Creation Units will be the same for all purchases and redemptions and Deposit Instruments and Redemption Instruments will be valued in the same manner as those investment positions currently held by the Funds. Applicants also seek relief from the prohibitions on affiliated transactions in section 17(a) to permit a Fund to sell its shares to and redeem its shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.³ The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the policies of the Fund of Funds and will be based on the NAVs of the Funds.

9. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 12(d)(1)(f) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

³ The requested relief would apply to direct sales of shares in Creation Units by a Fund to a Fund of Funds and redemptions of those shares. Applicants, moreover, are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an Affiliated Person, or a Second-Tier Affiliate, of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017-25359 Filed 11-22-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82115; File No. SR-BatsBZX-2017-58]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To List and Trade Shares of the CBOE S&P 500® Dividend Aristocrats® Target Income Index ETF Under the ETF Series Solutions Trust, Under Exchange Rule 14.11(c)(3), Index Fund Shares

November 17, 2017.

On September 19, 2017, Bats BZX Exchange, Inc. (“Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to list and trade Shares of the CBOE S&P 500® Dividend Aristocrats® Target Income Index ETF under Exchange Rule 14.11(c)(3). The proposed rule change was published for comment in the **Federal Register** on October 11, 2017.³ The Commission received no comments on the proposed rule change.

Section 19(b)(2) of the Act⁴ provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 81815 (October 4, 2017), 82 FR 47265.

⁴ 15 U.S.C. 78s(b)(2).

self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is November 25, 2017. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,⁵ designates January 19, 2018 as the date by which the Commission shall either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR-BatsBZX-2017-58).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-25346 Filed 11-22-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82113; File No. SR-BOX-2017-35]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 7300

November 17, 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 November 8, 2017, BOX Options Exchange LLC (the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule 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 7300. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission’s Public Reference Room and also on the Exchange’s Internet Web site at <http://boxoptions.com>.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 7300. Specifically, the Exchange is proposing to amend how the quoting requirements for Preferred Market Makers³ are calculated. A Preferred Market Maker must maintain a continuous two-sided market, pursuant to Rule 8050(c)(1), throughout the trading day, in 99% of the non-adjusted option series of each class for which it accepts Preferred Orders,⁴ for 90% of the time the Exchange is open for trading in each such option class.⁵ Compliance with the Preferred Market Maker quoting requirement is determined on a monthly basis; however, determining compliance with this requirement on a monthly basis does not relieve a Preferred Market

³ The term “Preferred Market Maker” means a Market Maker designated as such by a Participant with respect to an order submitted by such Participant to BOX. See Rule 7300(a)(2).

⁴ The term “Preferred Order” means any order, whether on a single option instrument or on a Complex Order Strategy, for which a Preferred Market Maker is designated with respect to such order, upon submission of such order to BOX. See Rule 7300(a)(1).

⁵ For purposes of this requirement, a Preferred Market Maker is not required to quote in intra-day add-on series or series that have a time to expiration of nine months or more in the classes for which it receives Preferred Orders and a Market Maker may still be a Preferred Market Maker in any such series if the Market Maker otherwise complies with the requirements.

Maker from meeting this quoting requirement on a daily basis, nor does it prohibit the Exchange from taking disciplinary action against a Preferred Market Maker for failing to meet this requirement each trading day.

Currently, the Exchange applies the quoting requirements on a class-by-class basis. The Exchange is now proposing that compliance with the quoting requirements apply to all of a Preferred Market Maker’s classes for which it receives Preferred Orders collectively. This change is being proposed as a competitive response to the rules of another exchange.⁶ The Exchange is not proposing any change to the actual quoting requirements, only to how the requirements are applied to Preferred Market Makers.

The Exchange believes that applying the continuous electronic quoting requirements for Preferred Market Makers collectively across all classes is a fair and efficient way for the Exchange and market participants to evaluate compliance with the continuous electronic quoting obligation. Applying the continuous electronic quoting requirements collectively across all classes rather than on a class-by-class basis is beneficial to Preferred Market Makers by providing some flexibility to choose which series in their appointed classes they will continuously electronically quote—increasing the continuous electronic quoting in the series of one class while allowing for a decrease in the continuous electronic quoting in the series of another class. This flexibility, however, does not diminish the Preferred Market Maker’s obligation to continuously electronically quote in a significant percentage of series for a significant part of the trading day. This flexibility is especially important for classes that have relatively few series and may prevent a Preferred Market Maker from reaching the continuous electronic quoting obligation when failing to quote 90% of the trading day in more than one series in an appointed class. The Exchange believes that the proposed rule change will not diminish, and may in fact increase, market making activity on the Exchange, by applying continuous electronic quoting obligations in a reasonable manner, which is already in place on other options exchanges.⁷

2. Statutory Basis

The Exchange believes that the proposal is consistent with the

⁶ See CBOE Rule 8.13(d).

⁷ See e.g., Nasdaq ISE, LLC (“ISE”) Rule 713, Supplementary Material .03 and Rule 804(e); and NYSE Arca, Inc. (“NYSE Arca”) Options Rule 6.88-O.

⁵ *Id.*

⁶ 17 CFR 200.30-3(a)(31).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

requirements of Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),⁸ in general, and Section 6(b)(5) of the Act,⁹ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. In particular, the proposed change will more closely align how the Exchange applies the quoting requirements for Preferred Market Makers with another options exchange.¹⁰ The Exchange believes the proposed change will provide increased flexibility to Preferred Market Makers in their ability to provide liquidity, which in turn, will benefit the public.

With respect to the application of continuous electronic quoting obligations collectively, the Exchange believes that providing Preferred Market Makers with flexibility to satisfy their continuous electronic quoting obligations collectively across their appointed classes will not diminish Preferred Market Makers' obligations to provide continuous electronic quotes in a significant percentage of series for a significant part of the trading day. BOX believes that the balance between the obligations imposed on and benefits provided to Preferred Market Makers under the rules is appropriate. The proposed rule change does not diminish any of the obligations imposed on Preferred Market Makers. Rather, it merely changes how the continuous electronic quoting obligation is applied. The Exchange notes that Preferred Market Makers are subject to many obligations under the rules, including the obligation to satisfy bid/ask differential requirements, to meet minimum quote size requirements, and to contribute to the maintenance of a fair and orderly market in their appointed classes, which the Exchange believes will ensure continued liquidity on the Exchange. BOX believes that its proposed rule change is consistent with the Act in that providing flexibility does not detract from the overall market making obligations of Preferred Market Makers. The proposed rule change better supports a Preferred Market Maker's continuous obligation to engage in dealings for its own account. Accordingly, any benefits of the

proposed rule change to provide flexibility to Preferred Market Makers are offset by the continued responsibilities to provide significant liquidity to the market to the benefit of all market participants.

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. As discussed above, the proposed change simply aligns the rules of the Exchange with those of other options exchanges.¹¹ Additionally, the proposed change is only amending how the quoting obligations are calculated; not the quoting obligations themselves.

C. 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 comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹² 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.

¹¹ See *supra* note 7.

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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-BOX-2017-35 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-BOX-2017-35. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, on official business days between the hours of 10:00 a.m. and 3:00 p.m., located at 100 F Street NE., Washington, DC 20549. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BOX-2017-35 and should be submitted on or before December 15, 2017.

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ See *supra* note 7.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017-25357 Filed 11-22-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82108; File No. SR-BatsBZX-2017-34]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Introduce Bats Market Close, a Closing Match Process for Non-BZX Listed Securities Under New Exchange Rule 11.28

November 17, 2017.

On May 5, 2017, Bats BZX Exchange, Inc. (now known as Cboe BZX Exchange, Inc.) (“BZX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to adopt Bats Market Close, a closing match process for non-BZX Listed Securities. The proposed rule change was published for comment in the **Federal Register** on May 22, 2017.³ On July 3, 2017, 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 the proposed rule change should be disapproved.⁴ The Commission received 54 comment letters on the proposed rule change, including a response from the Exchange.⁵ On August 18, 2017, the

Counsel and Corporate Secretary, New York Stock Exchange, dated June 13, 2017 (“NYSE Letter 1”); (7) John M. Bowers, Bowers Securities, dated June 14, 2017 (“Bowers Letter”); (8) Jonathan D. Corpina, Senior Managing Partner, Meridian Equity Partners, dated June 16, 2017 (“Meridian Letter”); (9) Fady Tanius, Chief Executive Officer, and Brian Fraioli, Chief Compliance Officer, Americas Executions, LLC, dated June 16, 2017 (“Americas Executions Letter”); (10) Ari M. Rubenstein, Co-Founder and Chief Executive Officer, GTS Securities LLC, dated June 22, 2017 (“GTS Securities Letter 1”); (11) John Ramsay, Chief Market Policy Officer, Investors Exchange LLC, dated June 23, 2017 (“IEX Letter”); (12) Jay S. Sidhu, Chairman, Chief Executive Officer, Customers Bancorp, Inc., dated June 27, 2017 (“Customers Bancorp Letter”); (13) Joanne Freiburger, Vice President, Treasurer, Masonite International Corporation, dated June 27, 2017 (“Masonite International Letter”); (14) David B. Griffith, Investor Relations Manager, Orion Group Holdings, Inc., dated June 27, 2017 (“Orion Group Letter”); (15) Kieran O’Sullivan, Chairman, President and CEO, CTS Corporation, dated June 28, 2017 (“CTS Corporation Letter”); (16) Sherri Brillon, Executive Vice-President and Chief Financial Officer, Encana Corporation, dated June 29, 2017 (“Encana Letter”); (17) Steven C. Lilly, Chief Financial Officer, Triangle Capital Corporation, dated June 29, 2017 (“Triangle Capital Letter”); (18) Robert F. McCadden, Executive Vice President and Chief Financial Officer, Pennsylvania Real Estate Investment Trust, dated June 29, 2017 (“Pennsylvania REIT Letter”); (19) Andrew Stevens, General Counsel, IMC Financial Markets, dated June 30, 2017 (“IMC Letter”); (20) Daniel S. Tucker, Senior Vice President and Treasurer, Southern Company, dated July 5, 2017 (“Southern Company Letter”); (21) Cole Stevens, Investor Relations Associate, Nobilis Health, dated July 6, 2017 (“Nobilis Health Letter”); (22) Mehmet Kinak, Head of Global Equity Market Structure & Electronic Trading, et. al., T. Rowe Price Associates, Inc., dated July 7, 2017 (“T. Rowe Price Letter”); (23) David L. Dragics, Senior Vice President, Investor Relations, CACI International Inc., dated July 7, 2017 (“CACI Letter”); (24) Mark A. Stegeman, Senior Vice President & CFO, Turning Point Brands, Inc., dated July 12, 2017 (“Turning Point Letter”); (25) Jon R. Moeller, Vice Chair and Chief Financial Officer, and Deborah J. Majoras, Chief Legal Officer and Secretary, The Procter & Gamble Company, dated July 12, 2017 (“P&G Letter”); (26) Christopher A. Iacovella, Chief Executive Officer, Equity Dealers of America, dated July 12, 2017 (“EDA Letter”); (27) Rob Bernshteyn, Chief Executive Officer, Chairman Board of Directors, Coupa Software, Inc., dated July 12, 2017 (“Coupa Software Letter”); (28) Sally J. Curley, Senior Vice President, Investor Relations, Cardinal Health, Inc., dated July 14, 2017 (“Cardinal Health Letter”); (29) Mickey Foster, Vice President, Investor Relations, FedEx Corporation, dated July 14, 2017 (“FedEx Letter”); (30) Alexander J. Matturri, CEO, S&P Dow Jones Indices, dated July 18, 2017 (“SPDJI Letter”); (31) John L. Killea, Chief Legal Officer, Stewart Information Services, dated July 19, 2017 (“Stewart Letter”); (32) M. Farooq Kathwari, Chairman, President & CEO, Ethan Allen Interiors, Inc., dated July 24, 2017 (“Ethan Allen Letter”); (33) Jeff Green, Founder, Chief Executive Officer and Chairman of the Board of Directors, The Trade Desk Inc., dated July 26, 2017 (“Trade Desk Letter”); (34) James J. Angel, Associate Professor, McDonough School of Business, Georgetown University, dated July 30, 2017 (“Angel Letter”); (35) Jon Stonehouse, CEO, and Tom Staab, CFO, BioCryst Pharmaceuticals, Inc., dated July 31, 2017 (“BioCryst Letter”); (36) Peter Campbell, Chief Financial Officer, Mimecast, dated July 31, 2017 (“Mimecast Letter”); (37) Joanne Moffic-Silver, Executive Vice President, General Counsel, and Corporate Secretary, Bats Global Markets, Inc., dated August 2, 2017 (“BZX Letter 1”); (38) David M. Weisberger, Head of Equities,

Commission instituted proceedings under Section 19(b)(2)(B) of the Exchange Act⁶ to determine whether to approve or disapprove the proposed rule change.⁷ Since then, the Commission has received four more comment letters, including a response from the Exchange.⁸

Section 19(b)(2) of the Act⁹ provides that, after initiating proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may, however, extend the period for issuing an order approving or

ViableMkts, dated August 3, 2017 (“ViableMkts Letter”); (39) Charles Beck, Chief Financial Officer, Digimarc Corporation, dated August 3, 2017 (“Digimarc Letter”); (40) Elizabeth K. King, General Counsel and Corporate Secretary, New York Stock Exchange, dated August 9, 2017 (“NYSE Letter 2”); (41) Representative Sean P. Duffy and Representative Gregory W. Meeks, dated August 9, 2017 (“Duffy/Meeks Letter”); (42) Michael J. Chewens, Senior Executive Vice President & Chief Financial Officer, NBT Bancorp Inc., dated August 11, 2017 (“NBT Bancorp Letter”); (43) Barry Zwarenstein, Chief Financial Officer, Five9, Inc., dated August 11, 2017 (“Five9 Letter”); (44) William A. Backus, Chief Financial Officer & Treasurer, Balchem Corporation, dated August 15, 2017 (“Balchem Letter”); (45) Raiford Garrabrant, Director, Investor Relations, Cree, Inc., dated August 15, 2017 (“Cree Letter”); (46) Steven Paladino, Executive Vice President & Chief Financial Officer, Henry Schein, Inc., dated August 16, 2017 (“Henry Schein Letter”); (47) Theodore Jenkins, Senior Director, Investor Relations and Communications, Corbus Pharmaceuticals, Inc., dated August 17, 2017 (“Corbus Letter”); (48) Ari M. Rubenstein, Co-Founder and Chief Executive Officer, GTS Securities LLC, dated August 17, 2017 (“GTS Securities Letter 2”); (49) Cameron Bready, Senior Executive VP, Chief Financial Officer, Global Payments Inc., dated August 17, 2017 (“Global Payments Letter”); (50) Mike Gregoire, CEO, CA Technologies, dated August 17, 2017 (“CA Technologies Letter”); (51) Patrick L. Donnelly, Executive Vice President & General Counsel, Sirius XM Holdings Inc., dated August 17, 2017 (“Sirius Letter”); (52) Theodore R. Lazo, Managing Director and Associate General Counsel, SIFMA, dated August 18, 2017 (“SIFMA Letter 2”); (53) Donald Bollerman, dated August 18, 2017 (“Bollerman Letter”); and (54) Sarah A. O’Dowd, Senior Vice President, Chief Legal Officer and Secretary, Lam Research Corporation, dated August 18, 2017 (“Lam Letter”).

⁶ 15 U.S.C. 78s(b)(2)(B).

⁷ See Securities Exchange Act Release No. 81437, 82 FR 40202 (August 24, 2017).

⁸ See Letters to Brent J. Fields, Secretary, Commission, from: (1) Gabrielle Rabinovitch, VP, Investor Relations, PayPal Holdings, Inc., dated September 12, 2017 (“PayPal Letter”); (2) Edward S. Knight, Executive Vice President and General Counsel, Nasdaq, Inc., dated September 18, 2017 (“Nasdaq Letter 2”); (3) Joanne Moffic-Silver, Executive Vice President, General Counsel, and Corporate Secretary, Bats Global Markets, Inc., dated October 11, 2017 (“BZX Letter 2”); and (4) Elizabeth K. King, General Counsel and Corporate Secretary, New York Stock Exchange, dated November 3, 2017 (“NYSE Letter 3”). All comments on the proposed rule change are available at: <https://www.sec.gov/comments/sr-batsbzx-2017-34/batsbzx201734.htm>.

⁹ 15 U.S.C. 78s(b)(2).

¹⁴ 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. 80683 (May 16, 2017), 82 FR 23320.

⁴ See Securities Exchange Act Release No. 81072, 82 FR 31792 (July 10, 2017).

⁵ See Letters to Brent J. Fields, Secretary, Commission, from: (1) Donald K. Ross, Jr., Executive Chairman, PDQ Enterprise, LLC, dated June 6, 2017 (“PDQ Letter”); (2) Edward S. Knight, Executive Vice President and General Counsel, Nasdaq, Inc., dated June 12, 2017 (“Nasdaq Letter 1”); (3) Ray Ross, Chief Technology Officer, Clearpool Group, dated June 12, 2017 (“Clearpool Letter”); (4) Venu Palaparthi, SVP, Compliance, Regulatory and Government Affairs, Virtu Financial, dated June 12, 2017 (“Virtu Letter”); (5) Theodore R. Lazo, Managing Director and Associate General Counsel, SIFMA, dated June 13, 2017 (“SIFMA Letter 1”); (6) Elizabeth K. King, General

disapproving the proposed rule change by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the **Federal Register** on May 22, 2017. November 18, 2017 is 180 days from that date, and January 17, 2018 is 240 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider this proposed rule change, the issues raised in the comment letters that have been submitted in connection therewith, and the Exchange's responses to the comments. The Commission also notes that any data received, or analyses or studies received by the Commission or performed by Commission staff, will be posted on the Commission's Internet Web site at <https://www.sec.gov/comments/sr-batsbzx-2017-34/batsbzx201734.htm>. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,¹⁰ designates January 17, 2018, as the date by which the Commission should either approve or disapprove the proposed rule change (File No. SR-BatsBZX-2017-34).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-25353 Filed 11-22-17; 8:45 am]
BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82112; File No. SR-BOX-2017-33]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing of Proposed Rule Change To Amend the Minimum Order Size for the Floor Broker Guarantee Provided in Rule 7600(f)

November 17, 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 November 6, 2017, BOX Options Exchange LLC ("Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule

change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7600 to amend the minimum order size for the Floor Broker guarantee provided in Rule 7600(f). The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at <http://boxexchange.com>.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 7600(f). Specifically, the Exchange is proposing to amend the minimum order size for the Floor Broker guarantee provided in Rule 7600(f).

Currently, on the Trading Floor, when a Floor Broker holds an order of the eligible order size or greater, the Floor Broker is entitled to cross a certain percentage of the order with other orders that he is holding. The Exchange may determine, on an option by option basis, the eligible size for an order that may be transacted pursuant to Rule 7600(f); however, the eligible order size may not be less than 500 contracts. The percentage of the order which a Floor Broker is entitled to cross, after all equal or better priced Public Customer bids or offers on the BOX Book and any non-Public Customer bids or offers that are ranked ahead of such Public Customer bids or offers are filled, is 40% of the remaining contracts in the order.

The Exchange is now proposing to decrease the required minimum eligible

order size for the Floor Broker guarantee from 500 contracts to 50 contracts.³ The proposed change would align the eligible order size with that of another exchange.⁴ The Exchange notes that it may still determine the eligible order size, provided that it is at least 50 contracts. Changes to the eligible order size will be communicated to Participants via Regulatory Circular pursuant to BOX Rule 7600(f)(2).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act⁵ in general, and furthers the objectives of Section 6(b)(5) of the Act⁶ 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. Specifically, the Exchange believes that the proposed change offers Floor Brokers a greater incentive to execute transactions on the BOX Trading Floor. Further, the Exchange believes that the proposed change is appropriate as a similar minimum eligible order size is present at another options exchange with a trading floor. Further, the Exchange believes that the proposed change will benefit market participants as the decreased minimum eligible order size may result in more transactions on the exchange.

In addition, the proposed rule change would promote a free and open market by permitting the Exchange to compete with other options exchanges. In this regard, competition would result in benefits to the investing public. As noted above, the proposed change would align the eligible order size with the rules of another options exchange with an open outcry trading floor.⁷ As such, permitting the Exchange to operate on an even playing field relative to other exchanges removes impediments to and perfects the mechanism for a free and open market and a national market system.

³ The Exchange notes that Participants have requested this change. The Exchange believes that the proposed change will result in more transactions on the BOX Trading Floor.

⁴ See CBOE Rule 6.74(d). The Exchange notes that CBOE Rule 6.74(d) also refers to facilitation and solicitation orders. The Exchange does not currently differentiate between facilitated orders or solicited orders on the BOX Trading Floor.

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

⁷ See CBOE Rule 6.74(d).

¹⁰ *Id.*

¹¹ 17 CFR 200.30-3(a)(57).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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. As discussed above, the proposed change simply aligns the eligible order size for the Floor Broker guarantee with that of another exchange with a trading floor. As such, the proposed change will allow the Exchange to compete with other options exchanges currently offering a reduced eligible order size with regard to the Floor Broker guarantee.

C. 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 comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve or disapprove 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-BOX-2017-33 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-BOX-2017-33. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BOX-2017-33 and should be submitted on or before December 15, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁸

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-25356 Filed 11-22-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82111; File No. SR-MIAX-2017-47]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend MIA X Options Rule 612, Aggregate Risk Manager ("ARM")

November 17, 2017.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 14, 2017, Miami International Securities Exchange, LLC

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

("MIA X Options" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Exchange Rule 612, Aggregate Risk Manager ("ARM").

The text of the proposed rule change is available on the Exchange's Web site at <http://www.miaxoptions.com/rule-filings>, at MIA X's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Exchange Rule 612, Aggregate Risk Manager ("ARM"), subsection (b)(1) Aggregate Risk Manager, and Interpretations and Policies .01, to make non-substantive technical changes to add additional detail to the rule text, all existing Exchange functionality discussed in this proposal will remain intact.

Exchange Rule 612(b)(1) provides that the System³ will engage the Aggregate Risk Manager in a particular option class when the counting program has determined that a Market Maker⁴ has traded during the specified time period

³ The term "System" means the automated trading system used by the Exchange for the trading of securities. See Exchange Rule 100.

⁴ The term "Market Makers" refers to "Lead Market Makers", "Primary Lead Market Makers" and "Registered Market Makers" collectively. See Exchange Rule 100.

a number of contracts equal to or above their Allowable Engagement Percentage.⁵ Further, the rule provides that the Aggregate Risk Manager will then automatically remove the Market Maker's quotations from the Exchange's disseminated quotation in all series of that particular option class until the Market Maker sends a notification to the System of the intent to reengage quoting and submits a new revised quotation.⁶

The Exchange proposes to amend the second sentence of the rule to provide that, "[t]he Aggregate Risk Manager will then automatically remove the Market Maker's Standard quotations and Day eQuotes from the Exchange's disseminated quotation" Exchange Rule 100 provides that, "the term 'quote' or 'quotation' means a bid or offer entered by a Market Maker that is firm and may update the Market Maker's previous quote, if any. The Rules of the Exchange provide for the use of different types of quotes, including Standard quotes and eQuotes, as more fully described in Rule 517."⁷ The Exchange believes that adding additional detail to the current rule text to identify which specific types of quotes are being removed adds clarity and precision to the rule text.

The Exchange also proposes to amend Interpretations and Policies .01 to add additional detail and specificity to the rule text. Currently, the rule provides that, "[t]he System does not include contracts traded through the use of an eQuote that is not a Day eQuote in the counting program for purposes of this Rule. eQuotes will remain in the System available for trading when the Aggregate Risk Manager is engaged." The Exchange proposes to amend the second sentence such that it reads, "eQuotes, other than Day eQuotes, will remain in the System available for trading and may continue to be submitted to the Exchange when the Aggregate Risk Manager is engaged." The Exchange believes that this proposed change more clearly articulates that eQuotes both (i) remain in the System, and (ii) may continue to be submitted to the System to facilitate trading, while the Aggregate Risk Manager is engaged. The Exchange believes the proposed changes add additional detail and clarity in describing existing Exchange functionality.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with

Section 6(b) of the Act⁸ in general, and furthers the objectives of Section 6(b)(5) of the Act⁹ 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in, securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes the proposed changes promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system because they provide additional detail and clarity concerning how Day eQuotes and eQuotes are handled when the Aggregate Risk Manager is engaged. Clarifying that eQuotes remain in the System available for trading and may continue to be submitted to the Exchange while the Aggregate Risk Manager is engaged benefits Members and investors by providing increased transparency of Exchange functionality. The Exchange notes that the proposed changes are non-substantive and do not affect current Exchange functionality in any way.

The Exchange believes the proposed changes promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system because they seek to improve the accuracy of the Exchange's rules. In particular, the Exchange believes that including additional detail describing existing Exchange functionality in the Exchange's rules will provide greater clarity to Members¹⁰ and the public regarding the Exchange's Rules, and it is in the public interest for rules to be accurate and concise so as to eliminate the potential for confusion.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The

proposed rule changes are not designed to address any competitive issues but rather are designed to add additional clarity and detail to the Exchange's rules.

The Exchange does not believe that the proposed rule changes will impose any burden on inter-market competition as the Rules apply equally to all Exchange Members.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act¹¹ and Rule 19b-4(f)(6)¹² thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ The term "Member" means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed "members" under the Exchange Act. See Exchange Rule 100.

⁵ See Exchange Rule 612(b)(2).

⁶ See Exchange Rule 612(b)(1).

⁷ See Exchange Rule 100.

• Send an email to rule-comments@sec.gov. Please include File Number SR-MIAX-2017-47 on the subject line.

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-MIAX-2017-47. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-MIAX-2017-47 and should be submitted on or before December 15, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-25355 Filed 11-22-17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82116; File No. SR-NYSEArca-2017-131]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To List and Trade Shares of the Sprott Physical Gold and Silver Trust Under NYSE Arca Rule 8.201-E

November 17, 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 November 9, 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 list and trade shares of the following under NYSE Arca Rule 8.201-E: Sprott Physical Gold and Silver Trust ("Trust"). The proposed 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

Under NYSE Arca Rule 8.201-E, the Exchange may propose to list and/or

trade pursuant to unlisted trading privileges ("UTP"), "Commodity-Based Trust Shares."⁴ The Exchange proposes to list and trade shares of the Trust pursuant to NYSE Arca Rule 8.201-E, defined herein and in the Proxy Circular (defined below) as "Units." The Units will be issued in connection with a plan of arrangement under the Alberta Business Corporations Act ("Arrangement") involving Sprott Inc. ("Sprott"), the Trust, Central Fund of Canada Limited ("CFCL") and its shareholders, The Central Group Alberta Ltd. ("CGAL") and its shareholders and 2070140 Alberta Ltd. ("2070140") as described in "Description of the Arrangement" below.

Sprott Asset Management LP will be the sponsor and manager of the Trust ("Manager").⁵ RBC Investor Services Trust ("RBC") will be the trustee and valuation agent of the Trust ("Trustee" or "Valuation Agent," as the case may be)⁶ and the custodian of the Trust's assets other than physical gold and silver bullion ("Non-Gold and Silver Custodian").⁷ The Trust will appoint a

⁴ Commodity-Based Trust Shares are securities issued by a trust that represent investors' discrete identifiable and undivided beneficial ownership interest in the commodities deposited into the Trust.

⁵ The Manager is a limited partnership formed and organized under the laws of the Province of Ontario, Canada, and acts as manager of the Trust pursuant to the trust agreement and the management agreement. The Manager will be responsible for the day-to-day activities and administration of the Trust. The Manager will manage and direct the business and affairs of the Trust. Additional details regarding the Manager are set forth in the Proxy Circular. The Manager has adopted a policy pursuant to which any entity or account that is: (a) Managed; or (b) for whom investment decisions are made, directly or indirectly, by a person that is involved in the decision-making process of, or has non-public information about, follow-on offerings of the Trust is prohibited from investing in the Trust, and no such decision-making person is permitted to invest in the Trust for that decision-making person's benefit, directly or indirectly.

⁶ RBC is a trust company existing under the laws of Canada. RBC is affiliated with a broker-dealer. RBC will represent to the Exchange that it has put in place and will maintain the appropriate information barriers and controls between itself and the broker-dealer affiliate so that the broker-dealer affiliate will not have access to information concerning the composition and/or changes to the Trust's holdings that are not available on the Trust's Web site. The Trustee will hold title to the Trust's assets on behalf of the unitholders of the Trust ("Unitholders") and will have exclusive authority over the assets and affairs of the Trust. The Trustee has a fiduciary responsibility to act in the best interest of the Unitholders. Additional details regarding the Trustee are set forth in the Proxy Circular.

⁷ According to the Proxy Circular, the Non-Gold and Silver Custodian will be responsible for the safekeeping of all of the assets of the Trust delivered to it and will act as the custodian of such assets. The Manager, in accordance with applicable law and with the consent of the Trustee, will have the authority to change the custodial arrangement

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

¹³ 17 CFR 200.30-3(a)(12).

custodian for the Trust's physical gold and silver bullion ("Gold and Silver Custodian").⁸ The TSX Trust Company will be the transfer agent of the Trust ("Transfer Agent").

The Commission has previously approved listing on the Exchange under NYSE Arca Rules 5.2–E(j)(5) and 8.201–E of other precious metals and gold-based commodity trusts, including: Merk Gold Trust;⁹ ETFs Gold Trust;¹⁰ ETFs Platinum Trust;¹¹ ETFs Palladium Trust;¹² APMEEX Physical-1 oz. Gold Redeemable Trust;¹³ Sprott Gold Trust;¹⁴ iShares Silver Trust;¹⁵ iShares COMEX Gold Trust;¹⁶ and Long Dollar Gold Trust.¹⁷ Prior to their listing on the Exchange, the Commission approved listing of the streetTRACKS Gold Trust on the New York Stock Exchange¹⁸ and listing of iShares

including, but not limited to, the appointment of a replacement custodian and/or additional custodians. Additional details regarding the Non-Gold and Silver Custodian are set forth in the Proxy Circular.

⁸ According to the Proxy Circular, the Trust's physical gold and silver bullion will be fully allocated and stored with the Gold and Silver Custodian or a sub-custodian of the Gold and Silver Custodian. The Gold and Silver Custodian will be responsible for and will bear all risk of the loss of, and damage to, the Trust's physical gold and silver bullion that is in its or its sub-custodian's custody, subject to certain limitations based on events beyond the Gold and Silver Custodian's control. The Manager, with the consent of the Trustee, may determine to change the custodial arrangements of the Trust. Additional details regarding the Gold and Silver Custodian are set forth in the Proxy Circular.

⁹ See, Securities Exchange Act Release No. 71378 (January 23, 2014), 79 FR 4786 (January 29, 2014) (SR–NYSEArca–2013–137).

¹⁰ See, Securities Exchange Act Release No. 59895 (May 8, 2009), 74 FR 22993 (May 15, 2009) (SR–NYSEArca–2009–40).

¹¹ See, Securities Exchange Act Release No. 61219 (December 22, 2009), 74 FR 68886 (December 29, 2009) (SR–NYSEArca–2009–95).

¹² See, Securities Exchange Act Release No. 61220 (December 22, 2009), 74 FR 68895 (December 29, 2009) (SR–NYSEArca–2009–94).

¹³ See, Securities Exchange Act Release No. 66930 (May 7, 2012), 77 FR 27817 (May 11, 2012) (SR–NYSEArca–2012–18).

¹⁴ See, Securities Exchange Act Release No. 61496 (February 4, 2010), 75 FR 6758 (February 10, 2010) (SR–NYSEArca–2009–113).

¹⁵ See, Securities Exchange Act Release No. 58956 (November 14, 2008), 73 FR 71074 (November 24, 2008) (SR–NYSEArca–2008–124) (approving listing on the Exchange of the iShares Silver Trust).

¹⁶ See, Securities Exchange Act Release No. 56224 (August 8, 2007), 72 FR 45850 (August 15, 2007) (SR–NYSEArca–2007–76) (approving listing on the Exchange of the streetTRACKS Gold Trust); Securities Exchange Act Release No. 56041 (July 11, 2007), 72 FR 39114 (July 17, 2007) (SR–NYSEArca–2007–43) (order approving listing on the Exchange of iShares COMEX Gold Trust).

¹⁷ See, Securities Exchange Act Release No. 79518 (December 9, 2016), 81 FR 90876 (December 15, 2016) (SR–NYSEArca–2016–84) (order approving listing and trading of shares of the Long Dollar Gold Trust).

¹⁸ See, Securities Exchange Act Release No. 50603 (October 28, 2004), 69 FR 64614 (November 5, 2004) (SR–NYSE–2004–22) (order approving listing of streetTRACKS Gold Trust on NYSE).

COMEX Gold Trust and iShares Silver Trust on the American Stock Exchange LLC.¹⁹ In addition, the Commission has approved trading of the streetTRACKS Gold Trust and iShares Silver Trust on the Exchange pursuant to UTP.²⁰

The Exchange represents that the Units satisfy the requirements of NYSE Arca Rule 8.201–E and thereby qualify for listing on the Exchange.²¹

Description of the Arrangement

CFCL is a passive, non-operating, specialized investment holding company organized under the laws of the Province of Alberta, which buys and holds almost entirely pure refined gold and silver bullion, primarily in international bar form. The issued and outstanding share capital of CFCL consists of common shares ("CFCL Common Shares") and Class A non-voting shares ("CFCL Class A Shares"). The CFCL Class A Shares are listed for trading on the Toronto Stock Exchange ("TSX") under the symbols "CEF.A" (Cdn.\$) and "CEF.U" (U.S.\$), and on the NYSE American under the symbol "CEF." CFCL is a "foreign private issuer," as defined in Rule 3b–4 under the Exchange Act.

According to the Manager, under the Arrangement, the Trust will acquire all the assets and assume all the liabilities of CFCL (other than CFCL's administration agreement), in exchange for that number of fully paid and non-assessable Units as is equal to the aggregate number of CFCL Class A Shares and CFCL Common Shares issued and outstanding immediately prior to the effective time of the Arrangement. The CFCL Common Shares and the common shares of 2070140 will be acquired by Sprott in exchange for, among other things, cash consideration of \$105 million Canadian dollars and 6,997,379 common shares of Sprott. CFCL will then promptly redeem and cancel the outstanding CFCL Class A Shares and the CFCL Common Shares

¹⁹ See, Securities Exchange Act Release Nos. 51058 (January 19, 2005), 70 FR 3749 (January 26, 2005) (SR–Amex–2004–38) (order approving listing of iShares COMEX Gold Trust on the American Stock Exchange LLC); 53521 (March 20, 2006), 71 FR 14967 (March 24, 2006) (SR–Amex–2005–72) (approving listing on the American Stock Exchange LLC of the iShares Silver Trust).

²⁰ See, Securities Exchange Act Release Nos. 53520 (March 20, 2006), 71 FR 14977 (March 24, 2006) (SR–PCX–2005–117) (approving trading on the Exchange pursuant to UTP of the iShares Silver Trust); 51245 (February 23, 2005), 70 FR 10731 (March 4, 2005) (SR–PCX–2004–117) (approving trading on the Exchange of the streetTRACKS Gold Trust pursuant to UTP).

²¹ With respect to application of Rule 10A–3 (17 CFR 240.10A–3) under the Exchange Act, the Trust relies on the exemption contained in Rule 10A–3(c)(7).

and distribute to the former holders thereof one Unit for each such share held.

The Court of Queen's Bench Alberta (Calgary) will pass upon the substantive and procedural fairness of the terms and conditions of the Arrangement to holders of CFCL Class A Shares and CFCL Common Shares and as such, the distribution of Units to the holders of the CFCL Class A Shares will be exempt from registration under the Securities Act of 1933, as amended ("Securities Act") pursuant to Section 3(a)(10) thereof, which exempts the issuance of any securities issued in exchange for one or more bona fide outstanding securities from the general requirement of registration where the terms and conditions of the issuance and exchange of such securities have been approved by a court of competent jurisdiction, after a hearing upon the fairness of the terms and conditions of such issuance and exchange at which all persons to whom it is proposed to issue the securities have the right to appear and receive timely notice thereof.

The CFCL Class A Shares are registered under Section 12(b) of the Exchange Act, based upon a listing of the CFCL Class A Shares on the NYSE American. Pursuant to Rule 12g–3(a) under the Exchange Act, the Units will "succeed" to the Section 12(b) Exchange Act registration of the CFCL Class A Shares upon completion of the Arrangement. In order to change the Section 12(b) registration of the Units from one based upon a listing on the NYSE American to one based upon a listing on the NYSE Arca, the Trust will file a separate initial registration statement on Form 8–A under the Exchange Act to register the Units under the Exchange Act based upon a listing of the Units on the NYSE Arca.

After completion of the Arrangement, the Trust will furnish current reports to the Commission on Form 6–K in accordance with Rules 13a–1 and/or 13a–3 under the Exchange Act. The Trust will also file with the Commission annual reports on Form 40–F under the Canada/U.S. Multijurisdictional Disclosure System. Information included in such filings (and which will be made available to Unitholders) will include (i) annual information form, (ii) annual financial statements, (iii) annual management report on fund performance ("MRFP"), (iv) quarterly financial statements, (v) quarterly MRFP and (vi) report of independent review committee.

Approval of holders of two-thirds of the issued and outstanding CFCL Class A Shares and of the issued and outstanding CFCL Common Shares each

voting as a separate class, as well as a majority of uninterested (in the transaction) holders of the issued and outstanding CFCL Class A Shares and of the issued and outstanding CFCL Common Shares, each voting as a separate class, will be required to effect the Arrangement.²²

Operation of the Trust

According to the Proxy Circular, the investment objective of the Trust is to participate in the Arrangement and to subsequently invest and hold substantially all of its assets in physical gold and silver bullion.²³ The Trust is authorized to issue an unlimited number of Units in an unlimited number of classes and series of a class. Each Unit of a class or series of a class represents an undivided ownership interest in the net assets of the Trust attributable to that class or series of a class of Units.

The Trust will seek to provide a secure, convenient and exchange-traded investment alternative for investors interested in holding physical gold and silver bullion without the inconvenience that is typical of a direct investment in physical gold and silver bullion. The Trust will invest primarily in long-term holdings of unencumbered, fully allocated, physical gold and silver bullion and will not speculate with regard to short-term changes in gold and silver prices. Pursuant to the trust agreement, the Manager has full authority and exclusive power to manage and direct the business and affairs of the Trust, subject to the Trust's

²² In connection therewith, CFCL prepared and mailed a proxy circular, dated October 26, 2017 ("Proxy Circular"), soliciting such approval at the meeting of such holders to be held on November 30, 2017, unless adjourned or postponed. The Proxy Circular was furnished by CFCL to the Commission (File No. 001-09038) on November 8, 2017, under cover of Form 6-K. The descriptions of the Trust and the Units contained herein are based, in part, on the Proxy Circular.

²³ The Trust will obtain exemptive relief from the Canadian securities regulatory authorities for relief from certain requirements of National Instrument 81-102—*Investment Funds*, legislation which governs mutual funds and non-redeemable investment funds in each of the provinces and territories of Canada ("Exemptive Relief"), to permit: (i) The Trust to invest up to 100% of its assets in physical gold or silver bullion; (ii) the appointment of the Gold and Silver Custodian as custodian of the Trust's physical gold or silver bullion assets, if required; (iii) purchases of Units on the Exchange and the TSX and redemption requests to be submitted directly to the registrar and Transfer Agent of the Trust; (iv) the redemption of Units and payment upon redemption of Units all as described under "Redemption for Physical Gold and Silver" and "Redemption of Units for Cash"; and (v) the Trust to establish a record date for distributions in accordance with the policies of the TSX and the Exchange.

investment and operating restrictions.²⁴ According to the Manager, the Trust will not invest in gold or silver certificates (other than legacy gold and silver certificates previously held by CFCL which historically represent less than 1% of CFCL's assets, and which will be sold for cash as soon as practicable following the completion of the Arrangement) or other financial instruments that represent gold or silver or that may be exchanged for gold or silver and will not purchase, sell or hold derivatives. The Trust does not anticipate making regular cash distributions to Unitholders.

According to the Proxy Circular, the Trust is neither an investment company registered or required to be registered under the Investment Company Act of 1940, as amended,²⁵ nor a commodity pool for purposes of the Commodity Exchange Act ("CEA"),²⁶ and neither the Manager nor the Trustee is subject to regulation as a commodity pool operator or a commodity trading adviser in connection with the operation of the Trust.

Operation of the Gold and Silver Markets

According to the Proxy Circular, the global trade in gold and silver consists of over-the-counter ("OTC"),

²⁴ The Trust's investment and operating restrictions provide that the Trust will invest in and hold a minimum of 90% of the total net assets of the Trust in physical gold and silver bullion in "London Good Delivery" bar (as defined in "Operation of the Gold and Silver Markets" below) form and hold no more than 10% of the total net assets of the Trust, at the discretion of the Manager, in physical gold and silver bullion (in London Good Delivery bar form or otherwise), gold or silver coins, debt obligations of or guaranteed by the Government of Canada or a province of Canada or by the Government of the United States or a state thereof, short-term commercial paper obligations of a corporation or other person whose short-term commercial paper is rated R-1 (or its equivalent, or higher) by Dominion Bond Rating Service Limited or its successors or assigns or F1 (or its equivalent, or higher) by Fitch Ratings or its successors or assigns or A-1 (or its equivalent, or higher) by Standard & Poor's or its successors or assigns or P-1 (or its equivalent, or higher) by Moody's Investor Service or its successors or assigns, interest-bearing accounts and short-term certificates of deposit issued or guaranteed by a Canadian chartered bank or trust company, money market mutual funds, short-term government debt or short-term investment grade corporate debt, cash or other short-term debt obligations approved by the Manager from time to time (for the purpose of this paragraph, the term "short-term" means having a date of maturity or call for payment not more than 182 days from the date on which the investment is made), except during the 60-day period following the closing of additional offerings or prior to the distribution of the assets of the Trust. Pursuant to the Exemptive Relief, the Trust will be permitted to invest up to 100% of its net assets, taken at market value of the time of purchase, in physical gold and silver bullion.

²⁵ 15 U.S.C. 80a-1.

²⁶ 17 U.S.C. 1.

transactions in spot, forwards and options and other derivatives, together with exchange-traded futures and options. The participants in the world gold market may be classified in the following sectors: The Mining and producer sector; the banking sector; the official sector; the investment sector; and the manufacturing sector. The participants in the world silver industry may be classified by the following sectors: The mining and producer sector; the banking sector; the investment sector; the fabrication and manufacturing sector; and the official sector.

According to the Proxy Circular, the OTC gold market and OTC silver market include spot, forward and option and other derivative transactions conducted on a principal-to-principal basis. While the OTC gold market and the OTC silver market are global, nearly 24-hour per day markets, the main centers for both OTC markets are London, New York and Zurich. Thirteen members of the London Bullion Market Association ("LBMA"), the London-based trade association that acts as the coordinator for activities conducted on behalf of its members and other participants in the London bullion market, act as OTC market makers for both the OTC gold market and the OTC silver market, and most OTC market trades for both markets are cleared through London.²⁷ The LBMA plays an important role in setting OTC gold and OTC silver trading industry standards. The LBMA's "London Good Delivery Lists" identify approved refiners of gold and silver.

According to the Proxy Circular, in the OTC gold market and the OTC silver market, gold and silver that meet the specifications for weight, dimensions, fineness (or purity), identifying marks (including the assay stamp of an LBMA-acceptable refiner) and appearance set forth in "The Good Delivery Rules for Gold and Silver Bars" published by the LBMA are "London Good Delivery" bars. A gold London Good Delivery bar must contain between 350 and 430 fine troy ounces of gold with a minimum fineness of 995 parts per 1,000. A silver London Good Delivery bar must contain between 750 ounces and 1,100 ounces of silver with a minimum fineness of 999 parts per 1,000.

According to the Proxy Circular, the most significant gold and silver futures exchanges are the COMEX, operated by

²⁷ Following the enactment of the Financial Markets Act 2012, the Prudential Regulation Authority of the Bank of England is responsible for regulating most of the financial firms that are active in the bullion market, and the Financial Conduct Authority is responsible for consumer and competition issues.

Commodities Exchange, Inc. ("COMEX"), a subsidiary of New York Mercantile Exchange, Inc. ("NYMEX"), and a subsidiary of CME Group Inc. ("CME Group"),²⁸ and the Tokyo Commodity Exchange.

Initial Distribution and Redemption of Units

According to the Proxy Circular, 252,156,003 Units are expected to be issued in connection with the Arrangement (subject to adjustment in connection with the exercise of dissent rights). Each outstanding Unit represents an equal, fractional, undivided ownership interest in the net assets of the Trust attributable to the Units. The Trust will not issue additional Units of the class offered in the Arrangement following the completion of the Arrangement except: (i) If the net proceeds per Unit to be received by the Trust are not less than 100% of the most recently calculated net asset value ("NAV") per Unit immediately prior to, or upon, the determination of the pricing of such issuance; or (ii) by way of distribution of Units in connection with an income distribution. According to the Manager, the Trust does not intend to issue new Units, or redeem existing Units, on a day-to-day basis.

Units may be redeemed at the option of the Unitholder on a monthly basis for physical gold and silver bullion or cash, as described below.

Redemption for Physical Gold and Silver

According to the Manager, subject to the terms of the trust agreement, a Unitholder may redeem Units for physical gold and silver bullion, provided the redemption request is for the Minimum Bullion Redemption Amount. "Minimum Bullion Redemption Amount" means 100,000 Units, provided that if 100,000 Units is not at least equivalent to the aggregate value of (i) one London Good Delivery bar of gold, (ii) the Proportionate Silver Amount (as defined below) and (iii) applicable expenses, the Minimum Bullion Redemption Amount shall be such number of Units as are at least equivalent to the aggregate value of (i) one London Good Delivery bar of gold, (ii) the Proportionate Silver Amount and (iii) applicable expenses. "Proportionate Silver Amount" means such number of London Good Delivery bars of silver with an aggregate value (as at the valuation time on the applicable redemption date in the month during

which the redemption request is processed) that is proportionate to the aggregate value of one London Good Delivery bar of gold based on the proportionate value of physical gold and silver bullion held by the Trust (as at the valuation time on the applicable redemption date in the month during which the redemption request is processed). Units redeemed for physical gold and silver bullion will have a redemption value equal to the aggregate value of the NAV per Unit of the redeemed Units on the last day of the month on which the Exchange is open for trading in the month during which the redemption request is processed (less applicable expenses described below) ("Redemption Amount").

The amount of physical gold and silver bullion a redeeming Unitholder is entitled to receive will be determined by the Manager, who will allocate the Redemption Amount to physical gold and silver bullion in direct proportion to the value of physical gold and silver bullion held by the Trust at the time of redemption ("Bullion Redemption Amount"). The quantity of each particular metal delivered to a redeeming Unitholder will be dependent on the applicable Bullion Redemption Amount and the number and individual weight of London Good Delivery bars of that metal that are held by the Trust on the redemption date. A redeeming Unitholder may not receive physical gold and silver bullion in the proportions then held by the Trust and, if the Trust does not have a London Good Delivery bar of a particular metal in inventory of a value equal to or less than the applicable Bullion Redemption Amount, the redeeming Unitholder will not receive any of that metal. The ability of a Unitholder to redeem Units for physical gold and silver bullion may be limited by the number of London Good Delivery bars held by the Trust at the time of redemption. Any Bullion Redemption Amount in excess of the value of the London Good Delivery bar or an integral multiple thereof of the particular metal to be delivered to the redeeming Unitholder will be paid in cash, as such excess amount will not be combined with any excess amounts in respect of the other metal for the purpose of delivering additional physical gold and silver bullion.

A Unitholder that owns a sufficient number of Units who desires to exercise redemption privileges for physical gold and silver bullion must do so by instructing his, her or its broker, who must be a direct or indirect participant of CDS Clearing and Depository Services Inc. or The Depository Trust Company, to deliver to the Transfer Agent on

behalf of the Unitholder a written notice ("Bullion Redemption Notice") of the Unitholder's intention to redeem Units for physical gold and silver bullion. Pursuant to the Exemptive Relief, the Transfer Agent will be permitted to directly accept redemption requests. A Bullion Redemption Notice must be received by the Transfer Agent no later than 4:00 p.m., Eastern Time ("E.T."), on the 15th day of the month in which the Bullion Redemption Notice will be processed or, if such day is not a business day, then on the immediately following day that is a business day. Any Bullion Redemption Notice received after such time will be processed in the next month.

A Unitholder redeeming Units for physical gold and silver bullion will receive the physical gold and silver bullion from the Gold and Silver Custodian. Physical gold and silver bullion received by a Unitholder as a result of a redemption of Units will be delivered by armored transportation service carrier pursuant to delivery instructions provided by the Unitholder to the Manager, provided that the delivery instructions are acceptable to the armored transportation service carrier. The armored transportation service carrier will be engaged by or on behalf of, and the costs in connection therewith, will be borne by the redeeming Unitholder. Such physical gold and silver bullion can be delivered: (i) To an account established by the Unitholder at an institution located in North America authorized to accept and hold London Good Delivery bars; (ii) in the United States, to any physical address (subject to approval by the armored transportation service carrier); (iii) in Canada, to any business address (subject to approval by the armored transportation service carrier); and (iv) outside of the United States and Canada, to any address approved by the armored transportation service carrier. Physical gold and silver bullion delivered to an institution located in North America authorized to accept and hold London Good Delivery bars will likely retain its London Good Delivery status while in the custody of such institution; physical gold and silver bullion delivered pursuant to a Unitholder's delivery instruction to a destination other than an institution located in North America authorized to accept and hold London Good Delivery bars will no longer be deemed London Good Delivery once received by the Unitholder. Costs associated with the redemption of Units and the delivery of physical gold and silver bullion will be borne by the redeeming Unitholder.

²⁸ CME Group is a member of the Intermarket Surveillance Group ("ISG"). See note 35, *infra*.

The armored transportation service carrier will receive physical gold and silver bullion in connection with a redemption of Units approximately 10 business days after the end of the month in which the Bullion Redemption Notice is processed. Once the physical gold and silver bullion representing the redeemed Units has been placed with the armored transportation service carrier, the Gold and Silver Custodian will no longer bear the risk of loss of, and damage to, such physical gold and silver bullion. In the event of a loss after the physical gold and silver bullion has been placed with the armored transportation service carrier, the Unitholder will not have recourse against the Trust or the Gold and Silver Custodian.

Redemption of Units for Cash

According to the Proxy Circular, Unitholders whose Units are redeemed for cash will be entitled to receive a redemption price per Unit equal to 95% of the lesser of: (i) The volume-weighted average trading price of the Units traded on the Exchange or, if trading has been suspended on the Exchange, the trading price of the shares traded on the TSX,²⁹ for the last five days on which the respective exchange is open for trading for the month in which the redemption request is processed; and (ii) the NAV of the redeemed Units as of 4:00 p.m., E.T., on the last day of such month on which the Exchange is open for trading. Pursuant to the Exemptive Relief, the redemption price will be permitted to be less than 100% of the NAV per Unit. Cash redemption proceeds will be transferred to a redeeming Unitholder approximately three business days after the end of the month in which such redemption request is processed by the Trust.

To redeem Units for cash, a Unitholder must instruct the Unitholder's broker to deliver a notice to redeem Units for cash ("Cash Redemption Notice") to the Transfer Agent. The Transfer Agent will be permitted to directly accept redemption requests. A Cash Redemption Notice must be received by the Transfer Agent no later than 4:00 p.m., E.T., on the 15th day of the month in which the Cash Redemption Notice will be processed or, if such day is not a business day, then on the immediately following day that is a business day. Any Cash Redemption Notice received after such time will be processed in the next month.

²⁹ The Exchange can receive information regarding transactions on TSX through the Investment Industry Regulatory Organization of Canada, which is a member of the ISG. See note 35, *infra*.

Net Asset Value

According to the Proxy Circular, the Valuation Agent will calculate the NAV for each class of Units as of 4:00 p.m., E.T., on each business day. The NAV as of the valuation time on each business day will be the amount obtained by deducting from the aggregate fair market value of the assets of the Trust as of such date an amount equal to the fair value of the liabilities of the Trust (excluding all liabilities represented by outstanding Units, if any) as of such date.³⁰ The NAV per Unit will be determined by dividing the NAV of the Trust on a date by the total number of Units then outstanding on such date. The fair market value of the assets of the Trust will be determined as follows:

(i) The value of physical gold and silver bullion will be its market value based on the price provided by a widely recognized pricing service as directed by the Manager and, if such service is not available, such physical gold and silver bullion will be valued at prices provided by another pricing service as determined by the Manager, in consultation with the Valuation Agent;

(ii) the value of any cash on hand or on deposit, bills, demand notes, accounts receivable, prepaid expenses, and interest accrued and not yet received, will be deemed to be the full amount thereof unless the Manager determines that any such deposit, bill, demand note, account receivable, prepaid expense or interest is not worth the full amount thereof, in which event the value thereof will be deemed to be such value as the Manager determines to be the fair value thereof;

(iii) short-term investments including notes and money market instruments will be valued at cost plus accrued interest;

(iv) the value of any security or other property for which no price quotations are available or, in the opinion of the Manager (which may delegate such

³⁰ According to the Manager, the Trust is a mutual fund under applicable Canadian securities legislation and must calculate its NAV pursuant to Part 14 of National Instrument 81-106—*Investment Fund Continuous Disclosure* ("NI 81-106"), a rule applicable to Canadian investment funds and administered by Canadian securities regulatory authorities. Pursuant to Subsection 14.2(1) of NI 81-106, the Trust must subtract the "fair value" of its liabilities from the fair value of its assets when calculating its NAV. Subsection 14.2(1.2) of NI 81-106 defines fair value as (a) the market value based on reported prices and quotations in an active market; or (b) if the market value is not available, or the Manager believes that it is unreliable, a value that is fair and reasonable in all the relevant circumstances, and requires the Manager to establish and maintain appropriate written policies and procedures for determining fair value of the Trust's assets and liabilities and to consistently follow those policies and procedures.

responsibility to the Valuation Agent under the valuation services agreement), to which the above valuation principles cannot or should not be applied, will be the fair value thereof determined from time to time in such manner as the Manager (or the Valuation Agent, as the case may be) will from time to time provide; and

(v) the value of all assets and liabilities of the Trust valued in terms of a currency other than the currency used to calculate the NAV will be converted to the currency used to calculate the NAV by applying the rate of exchange obtained from the best available sources to the Valuation Agent as agreed upon by the Manager including, but not limited to, the Trustee or any of its affiliates.

Secondary Market Trading

According to the Proxy Circular, Units may trade in the market at a premium or discount to the NAV per Unit. The amount of the discount or premium in the trading price relative to the NAV may be influenced by non-concurrent trading hours between the COMEX and the Exchange and the TSX. According to the Proxy Circular, while the Units will trade on the Exchange and the TSX until 4:00 p.m., E.T., liquidity in the global gold and silver markets will be reduced after the close of the COMEX at 1:30 p.m., E.T. As a result, during this time, trading spreads, and the resulting premium or discount to the NAV, may widen.

Availability of Information Regarding Gold and Silver

Currently, the Consolidated Tape Plan does not provide for dissemination of the spot price of a commodity, such as gold or silver, over the Consolidated Tape. However, there will be disseminated over the Consolidated Tape the quotation and last sale price for the Units, as is the case for all equity securities traded on the Exchange. In addition, there is a considerable amount of gold and silver price and gold and silver market information available on public Web sites and through professional and subscription services.

Investors may obtain on a 24-hour basis gold or silver pricing information based on the spot price for an ounce of gold or silver from various financial information service providers, such as Reuters and Bloomberg. Reuters and Bloomberg provide at no charge on their Web sites delayed information regarding the spot price of gold and silver and last sale prices of gold and silver futures, as well as information about news and developments in the gold and silver market. Reuters and Bloomberg also

offer a professional service to subscribers for a fee that provides information on gold and silver prices directly from market participants. ICAP plc provides an electronic trading platform called EBS for the trading of spot gold and silver, as well as a feed of real-time streaming prices, delivered as record-based digital data from the EBS platform to its customer's market data platform via Bloomberg or Reuters.

Complete real-time data for gold and silver futures and options prices traded on the COMEX are available by subscription from Reuters and Bloomberg. The NYMEX also provides delayed futures and options information on current and past trading sessions and market news free of charge on its Web site. There are a variety of other public Web sites providing information on gold and silver, ranging from those specializing in precious metals to sites maintained by major newspapers. In addition, the LBMA Gold Price and the LBMA Silver Price are publicly available at no charge at www.lbma.org.uk.

Availability of Information

The intra-day indicative value ("IIV") per Unit will be disseminated by one or more major market data vendors. The IIV will be calculated based on the amount of gold and silver held by the Trust and a price of gold and silver derived from updated bids and offers indicative of the spot prices of gold and silver.³¹

The IIV will be widely disseminated on a per Unit basis every 15 seconds during the NYSE Arca Core Trading Session by one or more major market data vendors. In addition, the IIV will be available through on-line information services.

The Web site for the Trust, which will be publicly accessible at no charge, will contain the following information: (a) The mid-point of the bid/ask price³² at the close of trading in relation to the NAV as of the time the NAV is calculated ("Bid/Ask Price") and a calculation of the premium or discount of such price against such NAV; and (b) data in chart format displaying the frequency distribution of discounts and premiums of the Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters (or for the life of the Trust, if

shorter). The Trust Web site will provide the last sale price of the Units as traded in the U.S. market, as well as a breakdown, provided on a daily basis, of the holdings of the Trust by metal type. The Web site for the Trust will also provide the information described in the penultimate paragraph of "Description of the Arrangement" above.

The Trust's daily (or as determined by the Manager in accordance with the trust agreement) NAV will be posted on the Trust's Web site as soon as practicable. In addition, the Exchange will make available over the Consolidated Tape quotation information, trading volume, closing prices and NAV per Unit from the previous day.

Criteria for Initial and Continued Listing

The Trust will be subject to the criteria in NYSE Arca Rule 8.201–E, including 8.201–E(e), for initial and continued listing of the Units.

A minimum of 100,000 Units will be required to be outstanding at the start of trading. The Exchange believes that the anticipated minimum number of Units outstanding at the start of trading is sufficient to provide adequate market liquidity.

Trading Rules

The Exchange deems the Units to be equity securities, thus rendering trading in the Units subject to the Exchange's existing rules governing the trading of equity securities. Trading in the Units on the Exchange will occur in accordance with NYSE Arca Rule 7.34–E(a). The Exchange has appropriate rules to facilitate transactions in the Units during all trading sessions. As provided in NYSE Arca Rule 7.6–E, the minimum price variation ("MPV") for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is \$0.01, with the exception of securities that are priced less than \$1.00 for which the MPV for order entry is \$0.0001.

Further, NYSE Arca Rule 8.201–E sets forth certain restrictions on Equity Trading Permit Holders ("ETP Holders") acting as registered Market Makers in the Units to facilitate surveillance. Pursuant to NYSE Arca Rule 8.201–E(g), an ETP Holder acting as a registered Market Maker in the Units is required to provide the Exchange with information relating to its trading in the underlying gold and silver and related futures or options on futures or any other related derivatives. Commentary .04 of NYSE Arca Rule 6.3–E requires an ETP Holder acting as a registered Market Maker, and its affiliates, in the Units to establish,

maintain and enforce written policies and procedures reasonably designed to prevent the misuse of any material, nonpublic information with respect to such products, any components of the related products, any physical asset or commodity underlying the product, applicable currencies, underlying indexes, related futures or options on futures and any related derivative instruments (including the Units).

As a general matter, the Exchange has regulatory jurisdiction over its ETP Holders and their associated persons, which include any person or entity controlling an ETP Holder. A subsidiary or affiliate of an ETP Holder that does business only in commodities or futures contracts would not be subject to Exchange jurisdiction, but the Exchange could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations of which such subsidiary or affiliate is a member.

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Units. Trading on the Exchange in the Units may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Units inadvisable. These may include: (1) The extent to which conditions in the underlying gold or silver market have caused disruptions and/or lack of trading; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in Units will be subject to trading halts caused by extraordinary market volatility pursuant to the Exchange's "circuit breaker" rule.³³

The Exchange will halt trading in the Units if the NAV of the Trust is not calculated or disseminated daily. The Exchange may halt trading during the day in which an interruption occurs to the dissemination of the IIV. If the interruption to the dissemination of the IIV persists past the trading day in which it occurs, the Exchange will halt trading no later than the beginning of the trading day following the interruption. In addition, if the Exchange becomes aware that the NAV with respect to the Units is not disseminated to all market participants at the same time, it will halt trading in the Units until such time as the NAV is available to all market participants.

³¹ The IIV on a per Unit basis disseminated during the NYSE Arca Core Trading Session should not be viewed as a real-time update of the NAV, which will be calculated once a day.

³² The bid/ask price of the Trust is determined using the highest bid and lowest offer on the Consolidated Tape as of the time of calculation of the closing day NAV.

³³ See NYSE Arca Rule 7.12–E.

Surveillance

The Exchange represents that trading in the Units will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by the Financial Industry Regulatory Authority (“FINRA”) on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.³⁴ The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Units in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

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.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Units with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Units from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Units from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement (“CSSA”).³⁵

Also, pursuant to NYSE Arca Rule 8.201–E(g), the Exchange is able to obtain information regarding trading in the Units and the underlying gold and silver and related futures or options on futures or any other related derivatives through ETP Holders acting as registered Market Makers, in connection with such ETP Holders’ proprietary or customer trades through ETP Holders which they effect on any relevant market.

The Exchange also has a general policy prohibiting the distribution of

material, non-public information by its employees.

All statements and representations made in this filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings or reference assets and (c) the applicability of Exchange listing rules specified in this rule filing shall constitute continued listing requirements for listing the Units on the Exchange.

The Manager will represent to the Exchange that it will advise the Exchange of any failure by the Trust to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will monitor for compliance with the continued listing requirements. If the Trust is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5–E(m).

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its ETP Holders in an “Information Bulletin” of the special characteristics and risks associated with trading the Units. Specifically, the Information Bulletin will discuss the following: (1) Redemptions of Units; (2) NYSE Arca Rule 9.2–E(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Units; (3) how information regarding the IIV is disseminated; and (4) trading information.

In addition, the Information Bulletin will reference that the Trust is subject to various fees and expenses as described in the Proxy Circular. The Information Bulletin will disclose that information about the Units of the Trust is publicly available on the Trust’s Web site.

The Information Bulletin will also discuss any relief, if granted, by the Commission or the staff from any rules under the Exchange Act.

2. Statutory Basis

The basis under the Exchange Act for this proposed rule change is the requirement under Section 6(b)(5)³⁶ that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and

open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Units will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Rule 8.201–E. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Units in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Units with other markets that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Units from such markets. In addition, the Exchange may obtain information regarding trading in the Units from markets that are members of ISG or with which the Exchange has in place a CSSA, including COMEX. Also, pursuant to NYSE Arca Rule 8.201–E(g), the Exchange is able to obtain information regarding trading in the Units and the underlying gold and silver through ETP Holders acting as registered Market Makers, in connection with such ETP Holders’ proprietary or customer trades through ETP Holders which they effect on any relevant market.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest. There is a considerable amount of gold and silver price and gold and silver market information available on public Web sites and through professional and subscription services. Investors may obtain on a 24-hour basis gold or silver pricing information based on the spot price for an ounce of gold or silver from various financial information service providers. Complete real-time data for gold and silver futures and options prices traded on the COMEX are available by subscription from Reuters and Bloomberg. In addition, the LBMA Gold Price and LBMA Silver Price are publicly available at no charge at www.lbma.org.uk. The Trust’s daily (or as determined by the Manager in accordance with the trust agreement) NAV will be posted on the Trust’s Web site as soon as practicable. The Trust’s Web site will provide an IIV per Unit, as calculated by a third party financial data provider during the Exchange’s Core Trading Session.

³⁴ FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA’s performance under this regulatory services agreement.

³⁵ For the list of current members of ISG, see <https://www.isgportal.org/home.html>.

³⁶ 15 U.S.C. 78f(b)(5).

Quotation and last-sale information regarding the Units will be disseminated through the facilities of the Consolidated Tape Association. The IIV will be widely disseminated on a per Unit basis every 15 seconds during the NYSE Arca Core Trading Session by one or more major market data vendors. In addition, the IIV will be available through on-line information services. The Exchange represents that the Exchange may halt trading during the day in which an interruption to the dissemination of the IIV occurs. If the interruption to the dissemination of the IIV persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. In addition, if the Exchange becomes aware that the NAV with respect to the Units is not disseminated to all market participants at the same time, it will halt trading in the Units until such time as the NAV is available to all market participants. The NAV per Unit will be calculated daily and made available to all market participants at the same time. One or more major market data vendors will disseminate for the Trust on a daily basis information with respect to the recent NAV per Unit and Units outstanding.

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 an additional type of exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Units and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a CSSA. In addition, as noted above, investors will have ready access to information regarding gold and silver pricing and gold and silver futures information.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The Exchange believes the proposed rule change will enhance competition by accommodating Exchange trading of an additional exchange-traded product relating to physical gold and silver.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve or disapprove 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-NYSEArca-2017-131 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-NYSEArca-2017-131. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2017-131 and should be submitted on or before December 15, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁷

Eduardo A. Aleman,
Assistant Secretary.

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BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82109; File Nos. SR-LCH SA-2017-006; SR-LCH SA-2017-007]

Self-Regulatory Organizations; LCH SA; Order Approving Proposed Rule Changes To Add Rules Related to the Clearing of Options on Index Credit Default Swaps

November 17, 2017.

I. Introduction

On August 1, 2017 and August 18, 2017, Banque Centrale de Compensation, which conducts business under the name LCH SA ("LCH SA"), 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 proposed rule changes (SR-LCH SA-2017-007 and SR-LCH SA-2017-006, respectively) to amend LCH SA's (1) CDS Clearing Rule Book (the "Rule Book"); (2) CDS Clearing Supplement (the "Clearing Supplement"); (3) CDS Clearing Procedures (the "CDS Clearing Procedures"); (4) CDS Dispute Resolution Protocol (the "Dispute Resolution Protocol"); (5) Reference Guide: CDS Margin Framework

³⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

("CDSClear Margin Framework"); and (6) CDSClear Default Fund Methodology ("Default Fund Methodology" together "LCH SA Rules")) in order to permit LCH SA to clear options on index credit default swaps ("CDS Options").³ The proposed rule changes were published in the **Federal Register** on August 21, 2017 and August 31, 2017.⁴ On October 4, 2017, the Commission extended the time period in which to approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule changes to November 19, 2017 for proposed rule change SR-LCH SA-2017-007,⁵ and to November 29, 2017 for proposed rule change SR-LCH SA-2017-006.⁶ The Commission received no comment letters regarding the proposed changes. For the reasons discussed below, the Commission is approving the proposed rule changes.

II. Description of the Proposed Rule Changes

LCH SA proposed to offer clearing services for certain options on index credit default swaps. A CDS Option is a contract that provides the buyer of the option the right, but not the obligation, to either buy or sell protection on the underlying index CDS, with the seller of the CDS Option standing as the counterparty, at a predefined exercise price on a specified exercise date. LCH SA proposed to clear CDS Options for which the underlying is a European index CDS that is currently cleared by LCH SA through its CDSClear service. Specifically, LCH SA represented that it would offer clearing services only for CDS Options for those contracts whose underlying index CDS is either the on-the-run or on-the-run minus one Markit iTraxx Europe Index or the Markit iTraxx Europe Crossover Index with 5-year tenors, and which will have expiries of one, two, or three months.⁷

³ All capitalized terms used but not defined in this Order have the same meaning as in the LCH SA Rules.

⁴ Securities Exchange Act Release No. 34-81399 (Aug. 15, 2017), 82 FR 39622 (Aug. 21, 2017) (SR-LCH SA-2017-007) ("Notice 007"); and Securities Exchange Act Release No. 34-81487 (Aug. 25, 2017), 82 FR 41438 (Aug. 31, 2017) (SR-LCH SA-2017-006) ("Notice 006" and jointly, the "Notices").

⁵ Securities Exchange Act Release No. 34-81818 (October 4, 2017), 82 FR 47277 (Oct. 11, 2017).

⁶ Securities Exchange Act Release No. 34-81819 (October 4, 2017) 82 FR 47257 (October 11, 2017).

⁷ See generally, Notice 006, 82 FR at 41438. LCH SA represented that extension of the CDS Clearing Service to clear CDS Options that reference indices other than the Markit iTraxx Europe Index would require amendments to the CDS Clearing Supplement, and potentially to the Rule Book and certain risk methodology documentation, and would therefore likely be subject to regulatory review and approval. See Notice 006, 82 FR at 41438-39.

In order to effectuate this initiative, LCH SA has proposed rule changes to its Rule Book, Clearing Supplement, CDS Clearing Procedures, Dispute Resolution Protocol, CDSClear Margin Framework, and Default Fund Methodology.

A. Changes to CDS Clearing Rule Book

As discussed in greater detail in the Notices, LCH SA proposed to amend its Rule Book to adopt several new terms defining, and related to, CDS Options. In addition, LCH SA proposed to modify the substance of certain existing defined terms to account for the clearing of CDS Options, and also proposed certain conforming and clarifying edits to terms and provisions throughout the Rule Book. Furthermore, LCH SA proposed additional edits to clarify the cross-border application of its operations, and to correct inconsistencies, or make clarifications, related to certain defined terms unrelated to the clearing of CDS Options.⁸ The most significant changes to the Rule Book concern end-of-day pricing procedures for CDS Options, the default management of CDS positions, including CDS Options, and changes relating to the mechanics of clearing CDS Options. Each of these changes is further described below.

LCH SA proposed to add new processes for calculating end of day prices for CDS Options, which will be used for related risk calculations, valuing open positions, and calculating a Clearing Member's margin requirement in connection with CDS Options. LCH SA also proposed to amend its Rule Book to permit Clearing Members to make use of the LCH SA settlement prices with respect to CDS Options in the same way that Clearing Members are permitted to use the settlement prices for CDS.⁹

LCH SA's proposed rule changes also set forth amendments to its Default Management Process, as set forth in Appendix 1 of its Rule Book. In addition to proposing various conforming edits and amendments to existing terms, as described in greater detail in the Notices, LCH SA proposed to amend its Default Management Process to provide that Clearing Members that are not registered for the CDS Option Clearing Service would not be required to participate in the bidding process for any Auction Package that contains cleared CDS Options. However, to the extent that a Clearing Member that is not registered to clear CDS Options submits winning bids for an Auction Package containing cleared CDS

Options, LCH SA proposed to establish a process for automatic registration of that Clearing Member for the CDS Option clearing service and an update to such Clearing Member's Product Family Forms.¹⁰

Finally, LCH SA proposed a number of operational changes with respect to clearing CDS Options. For example, with respect to membership, LCH SA proposed to add, among other things, a new article setting forth the procedures for registration for LCH SA's CDS Option clearing service. With respect to the clearing of CDS Options, LCH SA proposed rule changes regarding the novation of contracts that would provide that a cleared CDS Option would be replaced by two cleared transactions, and also proposed edits to clarify that LCH SA would calculate Clearing Member open positions by netting such cleared transactions. Moreover, LCH SA proposed amending its Rule Book to clarify that following a restructuring credit event or during other specified periods, LCH SA is permitted to compress cleared CDS Option transactions, and that premiums for such cleared transactions will be netted.¹¹

B. Changes to Clearing Supplement

LCH SA also proposed amendments to its Clearing Supplement. Under these proposed amendments, LCH SA would add a new Part C to the Clearing Supplement to establish the economic terms specific to cleared CDS Options transactions. Proposed Section 1 of Part C would generally set forth definitions for terms contained in Part C of the Clearing Supplement. Proposed Section 2 of Part C would set forth provisions for the creation of cleared CDS Options, as well as for the creation of cleared CDS Options transactions involving restructuring events, and transactions resulting from the exercise of the option. In particular, this section would provide the specific terms under which LCH SA and the Clearing Member enter into such transactions upon their creation and provides for the particulars of the confirmations of such transactions, as well as the procedures for compression exercises for cleared CDS Options transactions.¹² Section 3 of proposed Part C would establish relevant payment obligations for LCH SA and Clearing Members in connection with CDS Options.

Other provisions of proposed Part C of the Clearing Supplement would flesh out terms relating to restructuring,

¹⁰ Notice 006, 82 FR at 41441-42.

¹¹ Notice 006, 82 FR at 41440.

¹² Notice 006, 82 FR at 41442.

⁸ Notice 006, 82 FR at 41439-41440.

⁹ Notice 006, 82 FR at 41440-41.

exercise and assignment of CDS Options. For example, proposed Section 4 of Part C would set forth the procedures used following certain credit, succession, or restructuring events. Section 5 of proposed Part C would establish requirements and procedures for the creation of paired transactions, triggering and partial triggering conditions for transactions following a determination of certain credit, succession or restructuring events, as well as notification requirements related thereto. Section 6 of Part C would establish procedures regarding creation of paired transactions for exercised CDS Options, the clearing of the transactions resulting from exercise, and delivery procedures for various related notices and reports. These proposed procedures would require LCH SA to notify the relevant matched buyers and sellers with the identity of the buyer or seller, as applicable, following the creation of each paired transaction by LCH SA resulting from an exercised CDS Option. The proposed changes also provide, among other things, that upon notification of exercise, the original CDS Option transaction will be deemed terminated and a new exercised transaction will be deemed to be created between the Clearing Members and LCH SA.¹³

The remaining provisions in proposed Part C of the Clearing Supplement address settlement and other miscellaneous provisions. For example Section 7 of proposed Part C of the Clearing Supplement would provide that following exercise of a CDS Option, a new cleared index CDS transaction will be entered into between the relevant Clearing Members and LCH SA.¹⁴ Section 8 of Part C would set forth general rules related notices, including provisions regarding timing and delivery methods. Section 9 of proposed Part C would set forth procedures regarding the creation of paired transactions via an algorithm, address the registration of certain transactions resulting from restructuring events, address the resetting of trade dates, set forth mechanics for certain notices, and provide for the exercise of CDS Options by CDS Option buyers and sellers that are matched by LCH SA.¹⁵

C. Changes to CDS Clearing Procedures

LCH SA also proposed changes to the CDS Clearing Procedures that would amend provisions regarding membership, margin and price

alignment interest, collateral and cash payment, eligibility requirements, and CDS Option clearing operations. Regarding the membership provisions, LCH SA proposed amendments that would clarify that Applicants would be required to identify operational personnel that have knowledge of CDS Options as part of its registration, and would also describe procedures by which LCH SA will communicate approval of an application for registration for the CDS Option clearing service to an applicant, as well as procedures and conditions for withdrawal of registration from the service.¹⁶

Regarding margin, LCH SA proposed to modify Section 2.7 of its Clearing Procedures to clarify that initial margin would cover the costs associated with a default of a Clearing Member, as well as a “double event of default,” *i.e.*, where the Clearing Member is the seller of protection on the underlying CDS index. Further modifications to Section 2.7 would include clarification that spread margin will be calculated using spread and volatility variations, and that short charge margin would be imposed in instances where a Clearing Member acts as a protection seller with respect to a CDS Option, a single name CDS transaction, or the CDS index underlying the CDS Option. Other proposed amendments affecting margin include clarifying that self-referencing protection margin would be imposed where a Clearing Member acts as a protection seller with respect to the index CDS underlying a CDS Option for which such member is, or becomes, a reference entity. For Clearing Members acting as protection buyers with respect to the index CDS underlying a CDS Option, LCH SA proposed to require that such Clearing Members pay accrued fixed amount liquidation risk margin where the exercise of that CDS Option falls in the margin calculation time horizon. This margin add-on is designed to cover risks associated with an event of default when certain accrued fixed amount payments are due under the terms of the CDS Option during the period that the relevant transactions are liquidated under LCH SA’s Default Management Process.¹⁷ LCH SA would also modify provisions relating to credit event margin to specify that where a credit event occurs regarding a reference entity that is the subject of a cleared transaction, each Clearing Member will be required to pay credit event margin to cover the risk of adverse changes in the estimated recovery rate arising in

the event of non-payment of variation margin on the part of the CDS Option seller or CDS Option buyer with respect to a CDS Option transaction. LCH SA also proposed to clarify that variation margin will cover the change in market value of a CDS Option.¹⁸ Finally, LCH SA proposed to amend its CDS Clearing Procedures to state that Clearing Members are required to pay premiums to satisfy payment obligations with respect to a CDS option position.

LCH SA also proposed various amendments related to member and product eligibility requirements. With respect to provisions regarding Clearing Member eligibility requirements, LCH SA proposed to amend Section 4.1 of the CDS Clearing Procedures to require that a Clearing Member be registered for the CDS Option clearing service in order to clear such products, and to set forth eligibility requirements related thereto. Regarding product eligibility requirements, LCH SA proposed to add new Section 4.4 to the CDS Clearing Procedures that would set forth criteria that LCH SA, in consultation with relevant internal committees, would consider with respect to which CDS Options will be eligible for clearing, as well as procedures for Clearing Members to submit a CDS Option for clearing in certain circumstances where the transaction is a risk reducing transaction, even if the relevant eligibility criteria are not satisfied. The proposed amendments would also require LCH SA to publish a list of clearing eligible CDS Options.¹⁹

LCH SA also proposed to amend Section 5 of the CDS Clearing Procedures, which addresses LCH SA’s CDS clearing operations, to provide a description of the trade compression process with respect to CDS Options. Other proposed amendments to Section 5 include procedures to ensure that cleared transactions are stored and replicated on LCH SA’s systems. Furthermore, the procedures describing the process for calculating end-of-day prices using data contributed by Clearing Members would be amended to account for CDS Options (as described more fully in the Notices), including amendments providing for procedures to effect cross trades where submitted prices from market participants do not reflect quoted daily prices for a particular CDS Option, and for calculating the variation margin requirement for CDS Options in the

¹³ Notice 006, 82 FR at 41442–43.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Notice 006, 82 FR at 41444.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

event that necessary data is not received.²⁰

Additional changes relating to organization and numbering of various Rule Book and/or policy and procedure provisions, as well as certain conforming edits that were proposed are not discussed here, but are described in detail in the Notices.

D. Changes to Dispute Resolution Protocol

LCH SA also proposed amendments to its Dispute Resolution Protocol that would specify that the Dispute Resolution Protocol would apply where the parties to the arbitration include a seller or buyer of a CDS Option, and where the dispute in question arises from cleared matched transactions resulting from exercise of the CDS Option or from restructuring events.²¹

E. Changes to CDS Clear Margin Framework

As described in greater detail in the Notices, LCH SA proposed several amendments to its CDS Clear Margin Framework. These changes are as follows:

1. Changes Regarding CDS Option Pricing

In addition to providing a revised organizational structure for the CDS Clear Margin Framework, LCH SA proposed a new section describing the methodology to price CDS Options. The proposed pricing section would add a description of the methodology used to price CDS Options, including a proposal to adopt a modified version of a market standard model developed by Bloomberg that makes adjustments to the Black-Scholes model (“Bloomberg Model”). LCH SA represented that this model is commonly used by dealers and buy-side participants.²²

In conjunction with use of the modified Bloomberg Model, LCH SA proposed to adopt provisions to account for implied volatility. In particular, LCH SA proposed to use a stochastic volatility inspired (“SVI”) model in constructing volatility surfaces, as well as to price (or reprice) CDS Options and interpolate implied volatilities derived from the modified Bloomberg Model.²³ Regarding data required to calculate historical implied volatilities, LCH SA would adopt a section describing the database that would cover a 10-year look-back period, as well as the data that LCH SA would use to construct

historical implied volatility in the case of missing at-the-money volatility and SVI data points in the historical time series data. As part of its end-of-day process for gathering price data from Clearing Members, LCH SA proposed to implement a new price submission mechanism for CDS Options that would, similar to the end-of-day price submission process for CDS, require Clearing Members to contribute prices for CDS Options where the members have at least one open position on one strike for a particular expiry. These contributed prices, in turn, would be used for marking the options book, if certain conditions are met. If such conditions are not met, LCH SA proposed to fall back to Markit’s composite prices or use other pre-defined rules to fill in missing data.²⁴

The purpose of these proposed changes is to provide for a methodology and model for pricing CDS Options, as well as to establish a process of obtaining pricing information from Clearing Members in order to allow LCH SA to accurately evaluate the value of the positions that Clearing Members take, and thereby allow LCH SA to measure its exposures to Clearing Members.

2. Changes to Total Initial Margin

As described in greater detail in the Notices, LCH SA proposed to revise its CDS Clear Margin Framework to mitigate the risks associated with clearing CDS Options. LCH SA’s margin model is currently composed of six components: (1) Self-referencing margin, (2) spread margin, (3) short charge, (4) wrong-way risk margin, (5) interest rate risk margin, and (6) recovery rate margin. LCH SA proposes to add a new seventh margin component, vega margin, specifically to address volatility risk posed by CDS Options.

a. Self-Referencing Margin

Under its current CDS Clear Margin Framework, LCH SA uses self-referencing margin to capture the profit and loss (“P&L”) impact resulting from a Clearing Member defaulting on a sold-protection position in CDS referencing its own name with zero recovery. Currently, LCH SA has established this self-referencing margin for CDS only. For CDS Options, LCH SA proposed to implement a methodology to measure spread margin that will calculate the P&L impact from a Clearing Member defaulting on a sold-protection position in CDS referencing the Clearing Member by taking the difference between the CDS Option’s current value and the

value after incorporating a loss amount in the underlying CDS index.²⁵ The purpose of these proposed changes is to ensure that LCH SA can appropriately account for the impact of Clearing Members defaulting on sold-protection positions that underlie the CDS Options. LCH SA proposed to clear in a fashion similar to that which LCH SA has in place for CDS.

b. Spread Margin

Under the CDS Clear Margin Framework, as currently constituted, LCH SA calculates a spread margin component using a value-at-risk (“VaR”) model to construct a distribution of potential losses based on simulated scenarios using joint credit spread and volatility variations taken from past observations and then calculates the expected shortfall based on a quantile of the worst losses that could arise in those scenarios. In order to adapt the spread margin component to account for the clearing of CDS Options, LCH SA proposed to apply to CDS Options the approach it currently uses for CDS with two adjustments. First, LCH SA proposed to calculate simulated volatilities by defining a shifted volatility curve for each option expiry date, in addition to the simulated credit spreads currently used for CDS. LCH SA would then use both simulated volatilities and simulated credit spreads to calculate estimated CDS Option values which would, in turn, be used as an input in the VaR model to establish an expected shortfall amount. Second, to account for CDS Options that expire within the 5-day margin period of risk, which is necessary to ensure that underlying indices can be automatically cleared by LCH SA upon exercise, LCH SA proposed to add spread margin provisions regarding whether a CDS Option would be exercised upon expiry based on a consideration of the CDS Option’s present value on the date of expiry. Should LCH SA determine that a CDS Option would be exercised, it would take the resulting index CDS position into account as part of the expected shortfall calculation.²⁶

c. Changes to the Short Charge

For the short charge component of its initial margin, which is designed to address jump-to-default risk, LCH SA currently uses the greater of its (i) “global short charge,” which is derived from a Clearing Member’s largest net short exposure for CDS contracts and its top net short exposure among the three riskiest reference entities (with respect

²⁰ Notice 006, 82 FR at 41444–45.

²¹ Notice 006, 82 FR at 41445.

²² Notice 007, 82 FR at 39623.

²³ *Id.*

²⁴ Notice 007, 82 FR at 39623–24.

²⁵ Notice 007, 82 FR at 39624.

²⁶ *Id.*

to any entity type), and (ii) the “high-yield short charge,” which is derived from a Clearing Member’s top net short exposure (with respect to high yield CDS) and its top two net short exposures among the three riskiest reference entities in the high yield category. In order to adapt the short charge margin for CDS Options, LCH SA proposed to consider the P&L impact of a credit event experienced by a constituent of an index CDS underlying the CDS Option to determine the short exposure for CDS Options. LCH SA also proposed to adopt an approximation approach to define changes in the CDS Option price relative to the total loss in the underlying index instead of repricing the CDS Option each day based on the spread level of the underlying and at-the-money volatility.²⁷

LCH SA proposed additional adjustments to the short charge margin component to accommodate the clearing of CDS Options. First, when calculating total short exposure for a reference entity, instead of using the current spread, which is LCH SA’s approach for index CDS initial margin, total short exposure would be calculated for each day within the 5-day margin period of risk using simulated credit spread and at-the-money volatility data for CDS and CDS Options. Second, to address the non-linear nature of options, the total short exposure would not be the sum of P&L impacts of each individual entity’s default where such entities are selected for calculating the global short charge, HY short charge, and financial short charge. Instead, LCH SA proposed to calculate each of these charges by considering the combined P&L impacts of simultaneous defaults of selected entities. Third, LCH SA proposed to compare three expected shortfall amounts to disaggregate the total short exposure in a manner that permits separate calculation of the short charge margin associated with the P&L impact of the jump-to-default risk at the portfolio level and the spread margin that reflects the P&L impact that associated with changes in spreads and at-the-money volatility. LCH SA represented that these calculations facilitate implementation of limits on portfolio margin required under the European Market Infrastructure Regulation and the financial short charge, among other things.²⁸ Finally, LCH SA also proposed to consider the impact of option expiry on the P&L as part of the short charge calculation by considering cases in which the option

exercise decision occurs before the occurrence of two credit events, and cases where the two credit events occur before option exercise. LCH SA proposed to use the worst case of these scenarios as part of the short charge calculation.²⁹ LCH SA proposed these changes to ensure that it adequately addresses the jump-to-default risk associated with clearing CDS Options.

d. Changes to Interest Rate Risk Margin

LCH SA also proposed modifications to interest rate risk margin. Under its current CDS Clear Margin Framework, LCH SA calculates its interest rate risk margin by shifting interest rate curves and repricing the CDS portfolio. To accommodate clearing of CDS Options, LCH SA proposed to amend the methodology for calculating the interest rate risk margin component by providing for a repricing of CDS Option positions that uses the same “bump” parameters computed by taking the 99.7 percent quantile of the interest rate return using the same sample of dates in the spread historical database.³⁰ The changes proposed regarding interest rate risk margin are designed to ensure that LCH SA considers the risks to CDS Options associated with moves in interest rates.

e. Addition of Vega Margin

As described in greater detail in the Notices, LCH SA proposed to add a new vega margin component to its initial margin framework. The new vega margin would consider option premium changes when skew is shifted by an extreme move, define shifts of the skew by multiplying a standard deviation of returns of historical skews by a percentile for a given probability threshold, and consider similar shocks on the volatility of volatility.³¹ The vega margin is intended to capture the risk of skew and volatility of volatility associated with the CDS Options.

f. Liquidity Risk Margin

LCH SA proposed changes to the liquidity risk margin to accommodate portfolios that contain CDS Options. For CDS, under the current Framework, LCH SA calculates the liquidity risk margin by estimating the cost of liquidating a CDS portfolio. To calculate the liquidity charge for portfolios that include CDS Options, LCH SA proposed to consider the CDS Options separately from CDS, with the liquidity charge of the CDS Options based on the likely cost of any vega hedging that would be

required in the event that a portfolio of CDS Options needs to be liquidated. LCH SA would then compute the portfolio liquidity charge as the sum of the liquidity charge for the CDS component of a portfolio and the liquidity charge for the CDS Options component.³² The proposed changes are intended to permit LCH SA to consider the cost of liquidating portfolios that contain CDS Options.

g. Changes to Accrued Coupon Liquidation Risk Margin

LCH SA proposed changes to its accrued coupon liquidation risk margin to accommodate the clearing of CDS Options. Specifically, LCH SA stated that with respect to CDS Options, it would be exposed to coupon payment risk only if the option expiry falls within the 5-day liquidation period and the option is exercised. Consequently, LCH SA proposed to set the accrued coupon for CDS Options with an expiry of more than five days at zero, and the accrued coupon for options contracts with expiry falling within the 5-day liquidation period would be the accrued coupon for five days, if the options are exercised.³³ The proposed changes are intended to allow LCH SA to cover the risk of additional coupon costs associated with CDS Options during the 5-day liquidation period.

h. Credit Event Margin

LCH SA also proposed to adjust its method for calculating credit event margin to accommodate CDS Options. Currently, LCH SA addresses risks associated with hard credit events due to uncertain recovery rates prior to an auction by imposing a margin that would cover an adverse 25 percent absolute recovery rate move from the credit event determination date up to—and including—the auction date. As discussed in greater detail in the Notices, to better capture the risk stemming from clearing CDS Options, in cases where several credit events occur, LCH SA proposed to calculate credit event margin for each affected CDS and CDS Option contract by considering adverse recovery moves that could be a combination of upward, downward, or flat for the various entities in the portfolio instead of summing the credit event margin covering 25 percent adverse recovery rate moves for each reference entity. Under this proposed approach, the aggregate P&L at the level of the CDS and CDS Options contract would be the credit event margin for the portfolio. Additionally, for restructuring

²⁷ Notice 007, 82 FR at 39624–25.

²⁸ Notice 007, 82 FR at 39625.

²⁹ Notice 007, 82 FR at 39624–25.

³⁰ Notice 007, 82 FR at 39625.

³¹ Notice 007, 82 FR at 39625–26.

³² Notice 007, 82 FR at 39626.

³³ *Id.*

events, LCH SA proposed to address each maturity separately instead of netting positions with the same reference entity due to the fact that different auctions may be held depending on the maturity of the contracts. Finally, LCH SA proposed some revisions regarding terminology for credit event margin, which is also described in greater detail in the Notices. For restructuring events, because different auctions may be held depending on the maturity of the contracts, recovery rates could differ across all contracts with differing maturity dates. Consequently, LCH SA proposed to consider each maturity separately instead of netting all positions with the same reference entity.³⁴ The proposed changes are designed to allow LCH SA to cover the risks associated with the occurrence of several credit events, and to account for the effect of differing maturities.

i. Changes To Streamline Descriptions and Improve Readability

Finally, LCH SA proposed non-substantive changes that include moving sections discussing cash flow exchanges, contingency variation margin, and extraordinary margin to eliminate redundancy and improve readability.³⁵

F. Changes to the Default Fund Methodology

LCH SA proposed several changes to its Default Fund Methodology to accommodate the clearing of CDS Options. Under its current approach, the primary component of LCH SA's Default Fund Methodology is the identification of stress scenarios designed to impose market moves that are considered extreme but plausible above those that are used in the margin calculation in order to determine P&L impacts on Clearing Member portfolios. The two largest stress testing losses over initial margin ("STLOIM") across all Clearing Member portfolios are then used by LCH SA, plus a 10 percent buffer, to size LCH SA's default fund.³⁶

To accommodate the clearing of CDS Options, LCH SA proposed to amend the its Default Fund Methodology to take into account the new vega margin by adding a stressed vega margin calculation to LCH SA's stress test scenarios. In addition, LCH SA would add a new set of scenarios (referred to as "Volatility Scenarios") that would consider movements in the implied at-the-money volatilities of index families

for historical and theoretical stress scenarios. Further amendments would result in a new method for calculating the stressed spread margin component of the STLOIM. Under the proposed modifications, the new calculation for stressed spread margin would take into account at-the-money implied volatility moves for CDS Options and calculate the stressed spread margin in two scenarios: (1) Historical scenarios covering credit spread moves and at-the-money implied movements in combination; and (2) theoretical scenarios covering credit spread movements and at-the-money implied volatility moves independently. Changes to the stressed short charge component of STLOIM would be made to incorporate terms relevant to CDS Options, and the new stressed short charge calculation would largely follow the approach used for the short charge calculation as part of the initial margin framework to consider the non-linear nature of CDS Options, except that the number of entities assumed to be in default would be higher for the stressed short charge.

As noted above, LCH SA proposed to implement a new stressed vega margin component to the STLOIM calculation. This new stressed vega margin component would be calculated in the same manner as the vega margin component, except that it would use a higher quantile. Additionally, a new section entitled "Exercise Management" would be added to the Default Fund Methodology that would take into account the impact of CDS Options that expire within the 5-day liquidation period, and another new section would be added that would set forth the P&L scenarios that are considered part of the Default Fund Methodology, including providing for a stressed spread margin calculation for specific products.³⁷ These proposed changes are designed to ensure that LCH SA properly sizes the default fund to cover the two largest STLOIMs across all Clearing Member portfolios while taking into account that such portfolios may now include CDS Options.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act³⁸ directs the Commission to approve a proposed rule change of a self-regulatory organization if the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to

such self-regulatory organization. Section 17A(b)(3)(F) of the Act³⁹ requires, among other things, that the rules of a registered clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, as well as to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and to protect investors and the public interest. Rule 17Ad-22(e)(1)⁴⁰ requires a covered clearing agency to establish, implement, maintain and enforce policies and procedures that are reasonably designed to provide for a well-founded, clear, transparent and enforceable legal basis for each aspect of its activities in all relevant jurisdictions.

Rule 17Ad-22(b)(2)⁴¹ requires, in relevant part, a registered clearing agency that performs central counterparty services to establish, implement, maintain and enforce written policies and procedures reasonably designed to use margin requirements to limit its credit exposures to participants under normal market conditions and use risk-based models and parameters to set margin requirements. Rules 17Ad-22(e)(6)(i), (iv), and (v)⁴² require a covered clearing agency that provides central counterparty services to establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market, uses reliable sources of timely price data, and uses procedures and sound valuation models for addressing circumstances in which pricing data are not readily available or reliable, and that uses an appropriate method for measuring credit exposures that accounts for relevant product risk factors and portfolio effects across products.

Rule 17Ad-22(b)(3)⁴³ requires, in relevant part, a registered clearing agency that performs central counterparty services to establish, implement, maintain and enforce written policies and procedures reasonably designed to maintain

³⁴ *Id.*

³⁵ Notice 007, 82 FR at 39627.

³⁶ *Id.*

³⁷ *Id.*

³⁸ 15 U.S.C. 78s(b)(2).

³⁹ 15 U.S.C. 78q-1(b)(3)(F).

⁴⁰ 17 CFR 240.17Ad-22(e)(1).

⁴¹ 17 CFR 240.17Ad-22(b)(2).

⁴² 17 CFR 240.17Ad-22(e)(6)(i), (iv), and (v).

⁴³ 17 CFR 240.17Ad-22(b)(3).

additional financial resources sufficient to withstand, at a minimum, a default by the two participant families to which it has the largest exposures in extreme but plausible market conditions where such registered clearing agency acts as a central counterparty for security-based swaps. Rules 17Ad–22(e)(4)(i) and (ii)⁴⁴ require a covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by maintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence and, for a covered clearing agency involved in activities with a more complex risk profile,⁴⁵ maintaining additional financial resources at a minimum to enable it to cover a wide range of foreseeable stress scenarios that include, but are not limited to, the default of the two participant families that would potentially cause the largest aggregate credit exposure for the covered clearing agency in extreme but plausible market conditions.

For the reasons discussed below, after reviewing the proposed rule changes as a whole, including the representation that LCH SA is limiting its clearing services for CDS Options to the specific underlying CDS indices, tenors and option expiries specified herein,⁴⁶ the Commission finds that the proposed rule changes, which seek to amend LCH SA's Rule Book, Clearing Supplement, CDS Clear Procedures, Dispute Resolution Protocol, CDS Clear Margin Framework, and Default Fund Methodology to permit LCH SA to clear options on index credit default swaps ("CDS Options"), are consistent with Section 17A of the Act and the applicable provisions of Rule 17Ad–22 thereunder.

A. Changes to LCH SA's Rule Book, and Policies and Procedures

The Commission finds that the proposed changes to LCH SA's Rule Book and Policies and Procedures are consistent with the requirements of Section 17A(b)(3)(F) regarding prompt and accurate clearance and settlement,

and Exchange Act Rule 17Ad–22(e)(1). LCH SA proposed to modify its Rule Book, Clearing Supplement, CDS Clear Procedures, and Dispute Resolution Protocol to extend its established legal framework to govern the clearing of CDS Options, to provide for managing defaults associated with CDS Options, and to apply membership obligations to Clearing Members seeking to register for the CDS Option clearing service. Among other things, the proposed amendments provided for definitions for various terms relevant to CDS Options, and amended existing terms to accommodate clearing CDS Options. Further, the proposed amendments would establish a process for applying for membership in the CDS Option clearing service, thereby requiring members to satisfy LCH SA's financial and operational requirements, as well as contractual obligations regarding performance. These obligations include those arising under LCH SA's default management process, which would also be amended to accommodate the clearing of CDS Options. Consequently, the Commission believes that by creating registration and membership obligations for entities seeking to participate in the CDS Option Clearing Service, and by adapting its CDS Clear Procedures and Clearing Supplement to address operational aspects associated with clearing CDS Options, LCH SA has rules that are designed to ensure that Clearing Members participating in the CDS Option clearing service have the requisite ability to meet financial and operational obligations associated with clearing CDS Options, thereby ensuring the prompt and accurate clearance and settlement of such transactions. Therefore, the Commission finds that the proposed rule changes are consistent with Section 17A(b)(3)(F) of the Act.

Additionally, based on these proposed changes, the Commission believes that LCH SA will be able to provide for a well-founded and enforceable legal basis for clearing CDS Options in jurisdictions in which LCH SA operates, similar to that established for the clearing of CDS. Moreover, because the documents that are the subject of the proposed amendments are available on LCH SA's public internet site, or provided to Clearing Members, the Commission believes that the policies and procedures applicable to members of the CDS Option clearing service are sufficiently clear and transparent. As a result, the Commission finds that the proposed changes affecting LCH SA's Rule Book, and other policies and procedures are consistent

with the requirements of Rule 17Ad–22(e)(1).

B. Changes to CDS Clear Margin Framework and Default Fund Methodology

The Commission finds that the proposed rule changes regarding LCH SA's CDS Clear Margin Framework and Default Fund Methodology are consistent with the requirements of Section 17A(b)(3)(F) and Rules 17Ad–22(b)(2), (b)(3), (e)(4)(i) and (ii), and (e)(6)(i), (iv) and (v).

1. CDS Clear Margin Framework

LCH SA proposed to amend its CDS Clear Margin Framework to add a pricing methodology for CDS Options, based on a modified Bloomberg Model, and to add a process for obtaining pricing inputs from Clearing Members. By implementing a pricing methodology and process for obtaining pricing information from Clearing Members, the Commission believes that LCH SA will be able to adequately and consistently determine the value of the CDS Options it clears, and will also be able to appropriately mark the positions on a daily basis. As a result, the Commission finds that the proposed rule changes regarding LCH SA's pricing model and mechanism promote the prompt and accurate clearance and settlement of CDS Options and are consistent with the requirements of Section 17A(b)(3)(F) of the Act. Furthermore, because LCH SA proposed changes that would result in LCH SA relying on the Markit Composite or using other pre-defined rules to fill in missing data and complete the marking process, the Commission believes that the proposed rule changes provide that LCH SA has policies and procedures that are reasonably designed to ensure that LCH SA uses reliable sources of timely price data and uses procedures and sound valuation models for addressing circumstances in which pricing data are not readily available or reliable. Therefore, the Commission finds that the proposed rule changes are consistent with the requirements of Rule 17Ad–22(e)(6)(iv).

In addition, LCH SA proposed to amend its CDS Clear Margin Framework to account for clearing CDS Options. Among other things, LCH SA proposed amending its self-referencing margin to calculate the P&L impact on a CDS Option based on losses in the underlying index CDS. In addition, LCH SA proposed to amend its spread margin to incorporate simulated volatilities that complement simulated credit spreads in the value-at-risk model LCH SA uses. Moreover, LCH SA

⁴⁴ 17 CFR 240.17Ad–22(e)(4)(i) and (ii).

⁴⁵ Rule 17Ad–22(a)(4)(i) defines a covered clearing agency involved in activities with a more complex risk profile as a clearing agency registered with the Commission under Section 17A of the Act that provides central counterparty services for security-based swaps. See 17 CFR 240.17Ad–22(a)(4)(i).

⁴⁶ See *supra* note 7 and accompanying text.

proposed to amend its short charge to account for the P&L impact of a credit event on the reference obligations of a constituent of the underlying index CDS has on a CDS Option. Furthermore, LCH SA also proposed other amendments, described in greater detail in section II.e.2, above and in the Notices, to incorporate at-the-money volatility data, account for the non-linearity of CDS Options by considering the combined P&L impacts of simultaneous defaults, and to consider the impact of option expiry. LCH SA also proposed to amend its interest rate margin to calculate the P&L impact on CDS Options due to changes in interest rates, and proposed to introduce a new margin component, vega margin, to capture the risks associated with skew and volatility of volatility that specifically affect CDS Options. Similarly, LCH SA proposed amendments to its liquidity risk margin to account for the costs associated with vega hedging a portfolio of CDS Options, proposed changes to the accrued coupon liquidation risk margin to account for exposures to CDS Options during the 5-day liquidation period, and proposed changes to its credit event margin to account for different maturities separately and to consider combinations of upward, downward or flat recovery rate moves.

Based on these proposed changes, the Commission believes that LCH SA will have rules that are designed to collect and maintain financial resources intended to cover the risks to which LCH SA is exposed in connection with offering clearing services for CDS Options. As a result, the Commission believes that LCH SA will be able to minimize the risk that the losses associated with the default of a participant (or participants) in the clearing service for CDS Options will extend to other participants in the service or negatively affect the U.S. financial system as a whole. Consequently, the Commission believes that the proposed rule changes will provide for rules that permit LCH SA to be able to safeguard the securities and funds which are in its custody or control or for which it is responsible, and to be able to protect investors and the public interest. Accordingly, the Commission finds that the proposed rule changes are consistent with the requirements of Section 17A(b)(3)(F).

Moreover, considering these proposed changes as a whole, the Commission believes that the proposed rule changes will ensure that LCH SA uses margin requirements to limit its credit exposures to Clearing Members participating in the CDS Option clearing service. The Commission also believes

that by changing its margin framework to add the new vega margin and revise existing individual margin components as described above, LCH SA reasonably considers the risks specific to CDS Options (including consideration of risks associated with skew and volatility of volatility, among others), and establishes an appropriate method for measuring its credit exposures to Clearing Members participating in the CDS Option clearing service. As a result, the Commission finds that the proposed rule changes are consistent with the requirements of Rules 17Ad-22(b)(2) and (e)(6)(i) and (v).

2. Default Fund Methodology

LCH SA also proposed to amend its existing Default Fund Methodology to address the additional risks associated with clearing CDS Options. As described above, the Default Fund Methodology is designed to identify stress scenarios that impose extreme but plausible market moves in order to calculate stress losses in excess of margin. These losses are then used to size LCH SA's Default Fund. Among other things, LCH SA proposed to amend its Default Fund Methodology to take into account the new vega margin by adding a stressed vega margin, new Volatility Scenarios, and adopt a new method for calculating the stressed spread margin that would take into account at-the-money implied volatility moves for CDS Options in the stress scenarios used to size the CDSClear default fund. Based on these amendments, the Commission believes that LCH SA appropriately extends its existing Default Fund Methodology to address the clearing of CDS Options, and as a result will be able to maintain financial resources adequate to cover the risks associated with clearing CDS Options, including sufficient resources to enable LCH SA cover its credit exposure to each participant fully with a high degree of confidence and to cover the default of the two participant families to which LCH SA has exposures in extreme but plausible market conditions. Accordingly, the Commission finds that the proposed rule changes amending LCH SA's Default Fund Methodology are consistent with the requirements of Rule 17Ad-22(b)(3) and (e)(4)(i) and (ii).

IV. Conclusion

It is therefore ordered pursuant to Section 19(b)(2) of the Act that the proposed rule changes (SR-LCH SA-

2017-006 and SR-LCH SA-2017-007) be, and hereby are, approved.⁴⁷

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.⁴⁸

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-25354 Filed 11-22-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82131; File No. SR-GEMX-2017-52]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Remove Directed Order Functionality

November 20, 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 November 16, 2017, Nasdaq GEMX, LLC ("GEMX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to remove Directed Order³ functionality on GEMX.

The text of the proposed rule change is available on the Exchange's Web site at <http://nasdaqgemx.cchwallstreet.com/>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the

⁴⁷ In approving the proposed rule changes, the Commission considered the proposals' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁴⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ A "Directed Order" is an order routed from an Electronic Access Member to an Exchange market maker through the Exchange's System.

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

Last year the Exchange filed to delay the implementation of the Directed Order functionality in conjunction with a replatform to INET.⁴ INET is the proprietary core technology utilized across Nasdaq's global markets and utilized on The Nasdaq Options Market LLC ("NOM"), Nasdaq PHLX LLC ("Phlx") and Nasdaq BX, Inc. ("BX") (collectively, "Nasdaq Exchanges"). GEMX was migrated to INET technology in 2017. With the migration, GEMX delayed the implementation of the Directed Order functionality to stage the re-platform to provide maximum benefit to its Members while also ensuring a successful rollout. At that time, the Exchange noted that the Exchange will introduce the Directed Order functionality within one year from the date of this filing, otherwise the Exchange will file a rule proposal with the Commission to remove these rules. The Exchange filed the initial rule change on December 16, 2016.⁵ The Exchange has determined at this time not to offer Directed Order functionality.⁶ If the Exchange determines to offer this functionality at a later date, a rule proposal will be filed at that time.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁸ 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 because the Exchange will remove rule text related to functionality which will not be offered on GEMX. The current

rule text indicates the functionality is not offered today. The Exchange believes that removing Rule 811 from the Rulebook will avoid confusion as to whether this functionality will be enabled in the future.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intra-market competition because the Exchange is not offering this functionality today and believes there is no interest among Members for this functionality.

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 Act⁹ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹⁰

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (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-GEMX-2017-52 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-GEMX-2017-52. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-GEMX-2017-52 and should be submitted on or before December 15, 2017.

⁴ See Securities Exchange Act Release No. 80011 (February 10, 2017), 82 FR 10927 (February 16, 2017) (SR-ISEGemini-2016-17).

⁵ *Id.*

⁶ This functionality was turned off on February 21, 2017. See MIC-2017-07.

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁰ 17 CFR 240.19b-4(f)(6). 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.

¹¹ 17 CFR 200.30-3(a)(12).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017-25475 Filed 11-22-17; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-day notice and request for comments.

SUMMARY: The Paperwork Reduction Act (PRA) of 1995, requires federal agencies to publish a notice in the **Federal Register** to solicit public comments on each collection of information before submitting it to OMB for approval, and to allow 60 days for the public to provide comments. This notice complies with such requirements and announces SBA's proposal to conduct a survey of the small business owners or potential owners who receive counseling and training through SBA's Women's Business Center (WBC) program.

DATES: Submit comments on or before January 23, 2018.

ADDRESSES: Send all comments to Scott Henry, Director, Office of Performance Management, Small Business Administration, 409 3rd Street SW., Room 6010, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Scott Henry, Director, Office of Performance Management 202-205-6474, wbcsurvey@sba.gov or Curtis B. Rich, Management Analyst, 202-205-7030 curtis.rich@sba.gov.

SUPPLEMENTARY INFORMATION: The SBA's Women's Business Centers represent a national network of nearly 100 educational centers designed to assist women start and grow small businesses. WBCs operate with the mission to "level the playing field" for women entrepreneurs, who still face unique obstacles in the world of business. Through the management and technical assistance provided by the WBCs, entrepreneurs (especially women who are economically or socially disadvantaged) are offered comprehensive training and counseling on a variety of topics in many languages to help them start and grow their own businesses. The SBA plans to conduct a web-based survey to understand to what degree the Agency's WBC programs and services help entrepreneurs start, manage and grow businesses. The survey will help determine customer

satisfaction and the outcomes of the delivered business assistance services. Surveys will be completed by a sample of clients who received business assistance services at least one year ago. A minimum one year lag is desired to allow the business outcomes of the services to be observed. Because Women's Business Center offer both training and counseling services, clients who received either service will be included.

Solicitation of Public Comments

SBA is requesting comments on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collection

Title: SBA's Women's Business Center (WBC) Client Survey.

Description of Respondents: WBC clients who received entrepreneurship counseling and/or training services.

Estimated Number of Respondents: 1,145.

Estimated Annual Hour Burden: 1,496.

Curtis Rich,

Management Analyst.

[FR Doc. 2017-25388 Filed 11-22-17; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-day notice and request for comments.

SUMMARY: The Small Business Administration (SBA) intends to request approval, from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) of 1995, requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

DATES: Submit comments on or before January 23, 2018.

ADDRESSES: Send all comments to Dolores Rowen, Associate Director, Office of Policy and Research, National

Women's Business Council Small Business Administration, 409 3rd Street, 5th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT:

Dolores Rowen, Associate Director, Office of Policy and Research, National Women's Business Council Small Business Administration, Dolores.rowen@sba.gov 202-205-9974, or Curtis B. Rich, Management Analyst, 202-205-7030, curtis.rich@sba.gov.

SUPPLEMENTARY INFORMATION: The National Women's Business Council will examine women's participation in business incubation and acceleration programs to understand the characteristics of incubators and accelerators that affect the business outcomes of women business owners. NWBC will also gain insights into factors that affect women's participation in these programs. Respondents will be managers of incubators and accelerators, women business owners who graduated from the programs, and a sample of women business owners from the general population.

Summary of Information Collection

Title: Women's Participation in Incubators and Acceleration.

Description of Respondents: Managers of incubators and accelerators, women business owners who graduated from the programs, and a sample of women business owners from the general population.

Form Number: N/A.

Total Estimated Annual Responses: 500.

Total Estimated Annual Hour Burden: 123.

Curtis B. Rich,

Management Analyst.

[FR Doc. 2017-25387 Filed 11-22-17; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-day notice and request for comments.

SUMMARY: The Small Business Administration (SBA) intends to request approval, from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. Chapter 35 requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB, and to allow 60 days for public

comment in response to the notice. This notice complies with that requirement.

DATES: Submit comments on or before January 23, 2018.

ADDRESSES: Send all comments to Dena Moglia, Supervisor Veterans Affairs Specialist, Office of Veterans, Small Business Administration, 409 3rd Street, 6th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT:

Dena Moglia, Supervisor Veterans Affairs Specialist, Office of Veterans, dena.moglia@sba.gov 202-205-7034, or Curtis B. Rich, Management Analyst, 202-205-7030, curtis.rich@sba.gov.

SUPPLEMENTARY INFORMATION: This form facilitates online registration for the Boots to Business course for eligible service members and their spouses. The collected data will be used to report course statistics, manage course operations more efficiently, tailor individual classes based on the experience and interests of the participants, and ultimately contact Boots to Business alumni.

Solicitation of Public Comments: Comments may be submitted on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collections

Title: Boots to Business Course Registration.

Description of Respondents: Transitioning Service Members.

Form Number: N/A.

Estimated Annual Respondents: 15,000.

Estimated Annual Responses: 15,000.

Estimated Annual Hour Burden: 79,000.

Curtis B. Rich,

Management Analyst.

[FR Doc. 2017-25384 Filed 11-22-17; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-day notice and request for comments.

SUMMARY: The Small Business Administration (SBA) intends to request approval, from the Office of Management and Budget (OMB) for the

collection of information described below. The Paperwork Reduction Act (PRA) of 1995, requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

DATES: Submit comments on or before January 23, 2018.

ADDRESSES: Send all comments to Dolores Rowen, Associate Director, Office of Policy and Research, National Women's Business Council Small Business Administration, 409 3rd Street, 5th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT:

Dolores Rowen, Associate Director, Office of Policy and Research, National Women's Business Council Small Business Administration, Dolores.rowen@sba.gov 202-205-9974, or Curtis B. Rich, Management Analyst, 202-205-7030, curtis.rich@sba.gov;

SUPPLEMENTARY INFORMATION: This data collection is needed to fill the current void in information available about women's participation in the corporate market. It will be used to enable the development of specific and actionable recommendations to increase opportunities for women-owned businesses to obtain corporate contracts and make an even greater contribution to the U.S. economy. Respondents will be women business owners in the U.S. and managers of corporate supplier diversity programs.

Solicitation of Public Comments

SBA is requesting comments on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collection

Title: Women's Participation in Corporate Supplier Diversity Programs.

Description of Respondents: Women business owners in the U.S. and managers of corporate supplier diversity programs.

Form Number: N/A.

Total Estimated Annual Responses: 3,024.

Total Estimated Burden Hours: 732.

Curtis B. Rich,

Management Analyst.

[FR Doc. 2017-25385 Filed 11-22-17; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF STATE

[Public Notice: 10203]

60-Day Notice of Proposed Information Collection: Request for Approval To Travel to a Restricted Country or Area

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to January 23, 2018.

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

- *Web:* Persons with access to the Internet may comment on this notice by going to www.Regulations.gov. You can search for the document by entering "Docket Number: DOS-2017-0042" in the Search field. Then click the "Comment Now" button and complete the comment form.

- *Email:* PPTRules@state.gov.

- *Regular Mail:* Send written comments to: PPT Forms Officer, U.S. Department of State, CA/PPT/S/L/LA 44132 Mercure Cir, P.O. Box 1227 Sterling, VA 20166-1227.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT:

Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Anita Mody, U.S. Department of State, CA/PPT/S/L/LA 44132 Mercure Cir, P.O. Box 1227 Sterling, VA 20166-1227, by phone at (202) 485-6507, or by email at PPTFormsOfficer@state.gov.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Request for Approval to Travel to a Restricted Country or Area.

- *OMB Control Number:* 1405–0228.
 - *Type of Request:* Extension of a Currently Approved Collection.
 - *Originating Office:* Bureau of Consular Affairs, Passport Services, Office of Legal Affairs, CA/PPT/S/L/LA.
 - *Form Number:* No form.
 - *Respondents:* Individuals requesting they be granted a special validation, in accordance with 22 CFR 51.64, to use a U.S. passport to travel to, in, or through a country or area as to which U.S. passports have been declared invalid for such travel pursuant to 22 U.S.C. 211a and Executive Order 11295 (August 5, 1966) and in accordance with 22 CFR 51.63(a).
 - *Estimated Number of Respondents:* 250.
 - *Estimated Number of Responses:* 250.
 - *Average Time per Response:* 45 minutes.
 - *Total Estimated Burden Time:* 187.5 hours.
 - *Frequency:* Each time the individual wishes to travel to the restricted country or area.
 - *Obligation to Respond:* Required to Obtain or Retain a Benefit.
- We are soliciting public comments to permit the Department to:
- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
 - Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
 - Enhance the quality, utility, and clarity of the information to be collected.
 - Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The Secretary of State may exercise authority, under 22 U.S.C. 211a, Executive Order 11295 (August 5, 1966), and 22 CFR 51.63, to invalidate all U.S. passports for travel to a country or area if he determines that any of three conditions exist: The country is at war with the United States; armed hostilities are in progress in the country or area; or there is imminent danger to the public health or physical safety of U.S. travelers in the country or area. The

regulations of the Department of State provide that an individual's passport may be considered for validation for travel to, in, or through a country or area despite such restriction if the individual's travel is determined to fall within one of several categories established by the regulations. 22 CFR 51.64. Without the requisite validation, use of a U.S. passport for travel to, in, or through a restricted country or area may justify revocation of the passport for misuse under 22 CFR 51.62(a)(2) and subject the traveler to felony prosecution under 18 U.S.C. 1544 for misuse of a passport or other applicable laws.

The categories of persons specified in 22 CFR 51.64(b) as being eligible for consideration for passport validation are as follows:

- (a) An applicant who is a professional reporter and journalist whose trip is for the purpose of collecting and making available to the public information about the restricted country or area;
- (b) An applicant who is a representative of the American Red Cross or the International Committee of the Red Cross on an officially sponsored Red Cross mission;
- (c) An applicant whose trip to the restricted country or area is justified by compelling humanitarian considerations; or
- (d) An applicant whose trip to the restricted country or area is otherwise in the national interest.

The proposed information collection solicits data necessary for the Passport Services Directorate to determine whether an applicant is eligible to receive a special validation in his or her U.S. passport book permitting the applicant to make one round-trip to a restricted country or area. The information requested consists of the applicant's name; a copy of the front and back of the applicant's valid government-issued photo identification card with the applicant's date of birth and signature; current contact information, including telephone number and mailing address; and a statement explaining the reason that the applicant thinks his or her trip is in the national interest, supported by documentary evidence. Failure to provide the requested information may result in denial of a special validation to use a U.S. passport to travel to, in, or through a restricted country or area.

Effective September 1, 2017, upon determining that there is imminent danger to the public health or physical safety of U.S. travelers in the Democratic People's Republic of Korea (DPRK), the Secretary of State imposed a passport restriction with respect to

travel to the DPRK. The estimated number of recipients represents the Department of State's estimate of the annual number of special validations requests individuals will submit who wish to use their U.S. passport to travel to the DPRK, based on the current number of requests following the implementation of the Secretary of State's passport restriction. At this time, there are no other countries or areas that are the subject of passport restrictions pursuant to 22 CFR 51.63.

Methodology

Instructions for individuals seeking to apply for a special validation to use a U.S. passport to travel to, in, or through a restricted country or area is posted on a Web page maintained by the Department (travel.state.gov). The Web page directs applicants to submit the requested information via email to the Passport Services Directorate (PPTSpecialValidations@state.gov) or by mail to Special Validations, U.S. Department of State, CA/PPT/L/LA, 44132 Mercure Circle, P.O. Box 1227, Sterling, VA 20166–1227.

Information collected in this manner will be used to facilitate the granting of special validations to U.S. nationals who are eligible. The primary purpose of soliciting the information is to establish whether an applicant is within one of the categories specified in the regulations of the Department of State codified at 22 CFR 51.64(b) and therefore eligible to be issued a U.S. passport containing a special validation enabling him or her to make one round-trip to a restricted country or area, and to facilitate the application for a passport of such applicants.

Brenda S. Sprague,

Deputy Assistant Secretary for Passport Services, Consular Affairs, Department of State.

[FR Doc. 2017–25441 Filed 11–22–17; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Release From Federal Surplus Property and Grant Assurance Obligations at Ocotillo Airport, Ocotillo Wells, California

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Request to Release Airport Land.

SUMMARY: The Federal Aviation Administration (FAA) proposes to rule and invites public comment on the

application for a release of approximately 0.25 acres of airport property and granting of an access easement at the Ocotillo Airport (Airport), Ocotillo Wells, California from all conditions contained in the Surplus Property Deed and Grant Assurances because the parcel of land is not needed for airport purposes. The land requested to be released is located at the eastern perimeter of the airport. The proposed access easement is through one of the Airport's Runway Protection Zones (RPZ). Both the subject parcel and easement areas are currently used as open space buffer zones. The subject parcel abuts state park land which is intended to be used for primary access of the subject parcel. The access easement will only be provided if state parks changes the land use surrounding the Airport.

DATES: Comments must be received on or before December 26, 2017.

FOR FURTHER INFORMATION CONTACT:

Comments on the request may be mailed or delivered to the FAA at the following address: Lemuel del Castillo, Federal Aviation Administration, Los Angeles Airports District Office, Federal Register Comment, 15000 Aviation Boulevard Room 3000, Lawndale, CA 90261. In addition, one copy of the comment submitted to the FAA must be mailed or delivered to Mr. Peter Drinkwater, Director of Airports, County of San Diego—DPW, 1960 Joe Crosson Dr., El Cajon, CA 92020

SUPPLEMENTARY INFORMATION: In accordance with the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21), Public Law 106-181 (Apr. 5, 2000; 114 Stat. 61), this notice must be published in the **Federal Register** 30 days before the Secretary may waive any condition imposed on a federally obligated airport by surplus property conveyance deeds or grant agreements.

The following is a brief overview of the request:

The County of San Diego, Department of Public Works, requested a release from Federal surplus property and grant assurance obligations for approximately 0.25 acres of airport land to allow for its sale and granting of an access easement. The property was originally acquired pursuant to the Surplus Property Act of 1944 and was deeded to the County of San Diego on August 17, 1956. The property is located in the rural community of Ocotillo Wells, in San Diego County, California, approximately 90 miles outside of downtown San Diego. The subject parcel and access easement are unimproved and located outside a berm surrounding the dry lake

bed in which the airport's two runways are located. The access easement would provide an entrance to the subject parcel. This area is located along the eastern perimeter of the Airport, through one of the Airport's Runway Protection Zones (RPZ). Both areas are currently used as open space buffer zones, with a portion of the Access Easement used as RPZ. The future use and highest and best use would be expected to be the same as the current use. There are no basic utilities available in the area. The subject parcel abuts state park land which is intended to be used for primary access to the subject parcel. The access easement will only be provided if state parks changes the land use and access to the surrounding the Airport.

The sale price of the parcel will be based on an appraisal at fair market value. The sales proceeds that the County of San Diego will receive will provide improvements at the Airport, including a transient aircraft parking ramp and an informational kiosk. The sale of the property will not interfere with the airport or its operation, thereby serving the interests of civil aviation.

Issued in Hawthorne, California, on November 16, 2017.

David F. Cushing,

Manager, Los Angeles Airports District Office, Western-Pacific Region.

[FR Doc. 2017-25422 Filed 11-22-17; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Aviation Rulemaking Advisory Committee (ARAC) meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the ARAC.

DATES: The meeting will be held on December 14, 2017, starting at 1:00 p.m. Eastern Standard Time. Arrange oral presentations by December 6, 2017.

ADDRESSES: The meeting will take place at the Federal Aviation Administration, 600 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Lakisha Pearson, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267-4191; fax (202) 267-5075; email 9-awa-arac@faa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), we are giving notice of a meeting of the ARAC taking place on December 14, 2017, at the Federal Aviation Administration, 600 Independence Avenue SW., Washington, DC 20591.

The Draft Agenda includes:

1. Status Report from the FAA
2. Status Updates:
 - a. Active Working Groups
 - b. Transport Airplane and Engine (TAE) Subcommittee
3. Recommendation Reports
4. Any Other Business

The Agenda will be published on the FAA Meeting Web page (https://www.faa.gov/regulations_policies/rulemaking/npm/) once it is finalized. Attendance is open to the interested public but limited to the space available.

Please confirm your attendance with the person listed in the **FOR FURTHER INFORMATION CONTACT** section no later than December 1, 2017. Please provide the following information: Full legal name, country of citizenship, and name of your industry association, or applicable affiliation. If you are attending as a public citizen, please indicate so.

For persons participating by telephone, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section by email or phone for the teleconference call-in number and passcode. Callers are responsible for paying long-distance charges.

The public must arrange by December 6, 2017, to present oral statements at the meeting. The public may present written statements to the Aviation Rulemaking Advisory Committee by providing 25 copies to the Designated Federal Officer, or by bringing the copies to the meeting.

If you are in need of assistance or require a reasonable accommodation for this meeting, please contact the person listed under the heading **FOR FURTHER INFORMATION CONTACT**. Sign and oral interpretation, as well as a listening device, can be made available if requested 10 calendar days before the meeting.

Issued in Washington, DC, on November 17, 2017.

Dale Bouffiau,

Alternate Designated Federal Officer, Aviation Rulemaking Advisory Committee.

[FR Doc. 2017-25344 Filed 11-22-17; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration****[Docket Number FRA–2006–25452]****Petition for Waiver of Compliance**

Under part 211 of Title 49 of the Code of Federal Regulations (CFR), this provides the public notice that on September 29, 2017, the South Carolina Railroad Museum, Inc. (SCRM) 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 219. FRA assigned the petition docket number FRA 2006–25452.

Specifically, SCRM requests an extension of its existing waiver for the relief from the alcohol and drug testing requirements in part 219, Subpart G—Random Alcohol and Drug Testing Programs. The SCRM is a non-profit railroad museum located near Winnsboro, SC. It operates scheduled excursion passenger trains on certain weekends, and special charter trains. SCRM states that its excursion trains run on about 29 days per calendar year, and 2 to 6 trains are scheduled on each day. In 2016, SCRM also operated 19 charter trains. The round trip of these trains is 10.2 miles. The trains are staffed entirely by 13 volunteers who are certified, as appropriate, under 49 CFR parts 240 and 242. SCRM's operating rules forbid the use of drugs and alcohol on museum property, and forbid train crew personnel from serving after using alcohol or drugs. SCRM states in its petition letter that in 28 years of operation, there have been no known instances of alcohol or drug use by museum volunteers serving on train crews.

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 January 8, 2018 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 www.regulations.gov.

Issued in Washington, DC.

Robert C. Lauby,

*Associate Administrator for Railroad Safety
Chief Safety Officer.*

[FR Doc. 2017–25362 Filed 11–22–17; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration****[Docket Number FRA–2017–0119]****Petition for Waiver of Compliance**

Under part 211 of Title 49 Code of Federal Regulations (CFR), this provides the public notice that on November 3, 2017, TEX Rail 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

236. FRA assigned the petition Docket Number FRA–2017–0119.

Specifically, TEX Rail seeks temporary relief from the requirements of 49 CFR 236.0(c)(2) which requires a compliant block signal system at locations where passenger trains will operate at a speed of 60 or more miles per hour, unless an FRA-approved PTC system is installed. TEX Rail faces schedule constraints which preclude the complete installation of this system prior to the receipt of its fleet of new Stadler FLIRT Diesel Multiple Units, (DMUs), which will be used to provide commuter rail service over this railroad. TEX Rail's CTC and I–ETMS systems will not be in service by February 2018, when TEX Rail contractually must begin pre-revenue service acceptance testing of its new DMU fleet.

Therefore, TEX Rail requests a waiver to perform pre-revenue service testing of its new fleet of FLIRT DMUs at a speed of 60 to 70 miles per hour (MAS) utilizing a 24.5-mile segment of track described in Appendix "A" to this petition. TEX Rail requests permission to perform testing under this waiver until the CTC and I–ETMS systems are functioning in compliance with FRA regulations.

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 January 8, 2018 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*.

Issued in Washington, DC.

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2017-25364 Filed 11-22-17; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-1999-6404]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 of the Code of Federal Regulations (CFR), this provides the public notice that on September 6, 2017, The National Railroad Passenger Corporation (Amtrak) petitioned the Federal Railroad Administration (FRA) for an amendment to a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR 238.111, *Pre-revenue service acceptance testing plan*. FRA assigned the petition docket number FRA-1999-6404.

Specifically, Amtrak and the Washington State Department of Transportation (WSDOT) are requesting permission to operate Talgo articulated trainsets on Sound Transit's Lakewood Subdivision near Tacoma, Washington.

In 2010, WSDOT was awarded nearly \$800 million of American Recovery and Reinvestment Act (ARRA) High-Speed

Intercity Passenger Rail funds to improve Amtrak Cascades service in the Pacific Northwest. Two of the projects funded by this ARRA grant program provided over \$200 million to upgrade Sound Transit's Lakewood Subdivision. These upgrades have provided infrastructure to allow for the re-routing of Amtrak's long distance and Amtrak Cascades regional trains off a portion of BNSF Railway's (BNSF) Seattle Subdivision. The Lakewood Subdivision has substantially less freight traffic than the existing route along BNSF's Seattle Subdivision.

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 January 8, 2018 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*.

Issued in Washington, DC.

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2017-25361 Filed 11-22-17; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2008-0028]

Petition for Waiver of Compliance

Under Part 211 of Title 49 Code of Federal Regulations (CFR), this provides the public notice that on November 14, 2017, Riverport Railroad, LLC (RVPR), 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-2008-0028.

Specifically, RVPR seeks to renew a waiver of compliance from the glazing regulations in 49 CFR 223.11, *Requirements for existing locomotives*, for one locomotive, identified as RVPR 4029. RVPR is a terminal/switching railroad on the former Department of Defense (DOD) Savanna Army Depot. This installation is located in rural northwestern Illinois in Jo Daviess and Carroll Counties. RVPR states they own 80 percent of the adjoining land, and the other 20 percent is privately owned and access controlled. The BNSF Railway interchanges cars with RVPR at Robinson Spur where there are eight interchange tracks. All trackage is enclosed and there are no overhead structures or bridges where objects could be thrown at trains. RVPR operates at 10 miles per hour or less, and provides car storage for customers, as well as servicing a railcar repair and a railcar cleaning company.

The locomotive is a 60-ton 500-horsepower diesel electric locomotive numbered 4029. This engine was manufactured in 1950 and remanufactured for DOD between 1987

and 1990. This unit has safety glass in all cab windows, but they are marked in accordance with DOD standards.

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 January 8, 2018 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](http://www.regulations.gov).

Issued in Washington, DC.

Robert C. Lauby,

*Associate Administrator for Railroad Safety,
Chief Safety Officer.*

[FR Doc. 2017-25363 Filed 11-22-17; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms, and Record Keeping Requirements; Agency Information Collection Activity Under OMB Review

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

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 this notice announces the Information Collection Request (ICR) abstracted below will be submitted to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. A **Federal Register** Notice with a 60-day comment period soliciting public comments on the following information collection was published on July 17, 2017.

DATES: Comments must be received on or before December 26, 2017.

ADDRESSES: You may submit comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention NHTSA Desk Officer.

FOR FURTHER INFORMATION CONTACT: Dr. Kathy Sifrit, Office of Behavioral Safety Research (NPD-320), National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., W46-472, Washington, DC 20590. Dr. Sifrit's phone number is (202) 366-0868 and her email address is kathy.sifrit@dot.gov.

SUPPLEMENTARY INFORMATION:

Title: Visual Scanning Training for Older Drivers.

Type of Request: New information collection requirement.

Abstract: Older adults comprise an increasing proportion of the driving population and exposure-based analyses have consistently shown increased rates of crash involvement for drivers as they age into their 70's, 80's and beyond. Studies have identified particular situations where older drivers are most at risk, including navigating

intersections and merging. These tasks share attributes of elevated demand on visual search and visual attention skills.

The visual scanning training protocol that is the focus of this study was designed to be delivered in one-on-one sessions by a generalist occupational therapist (OT) in a clinical setting, targeting visual field expansion, simultaneous processing of multiple visual stimuli, and ocular skill (visual search routine) exercises.

A preliminary analysis of the training's effectiveness was provided through performance of the NHTSA study, "Validation of Rehabilitation Training Programs for Older Drivers" (See DOT HS 811 749, April 2013). While these results were encouraging, the sample size was small and the research team, program developer and NHTSA all agreed that additional evidence was needed before widespread promotion of this intervention might be warranted. That is the focus of the proposed research.

Study staff will invite drivers 70 and older from a continuing care retirement community to a public meeting to describe the opportunity including inclusion and exclusion criteria. The project plans to recruit a total of 90 participants for the study. Participants will be randomly assigned to either a visual scanning training program (a series of four one-hour one-on-one training sessions) or to a control (placebo) activity for the same number of hours as the visual training protocol. All participants will undergo three, one-hour on-road evaluations by a Certified Driver Rehabilitation Specialist (CDRS) over the course of the study: One before training, one immediately after training, and a final evaluation three months after training. The CDRS will provide instructions about what route to follow and will score how safely the participant drives using standard procedures and criteria that are broadly accepted in the profession. The CDRS scores will be used to determine the effectiveness of the training protocol relative to the control (placebo) group.

Following training, the 45 study participants enrolled in the visual scanning training group will complete a brief questionnaire to determine whether they believe the training will help them to be a safer driver, whether they would recommend the training to friends or relatives, and what they would pay for such training. The training feedback, as well as the CDRS road test scores, will be used to evaluate the effectiveness of the training. Following the second and third evaluations, each study participant will

receive a \$100 gift card as compensation for his/her participation.

Findings will provide information about whether this training program improves the driving performance of drivers 70 and older, and whether they find the training acceptable. NHTSA will use the information to inform recommendations to the public, and particularly to the OT community, regarding this training program.

Affected Public: Participants will include 90 licensed drivers 70 and older.

Estimated Total Annual Burden: The total burden for data collection would be 690 hours.

Comments are invited on the following:

(i) 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;

(ii) The accuracy of the Department's estimate of the burden of the proposed information collection;

(iii) Ways to enhance the quality, utility and clarity of the information to be collected; and

(iv) Ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is most effective if OMB receives it within 30 days of publication of this notice.

Authority: 44 U.S.C. Section 3506(c)(2)(A).

Issued in Washington, DC, on November 20, 2017.

Jeff Michael,

Associate Administrator, Research and Program Development.

[FR Doc. 2017-25401 Filed 11-22-17; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Minority Veterans, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act that the Advisory Committee on Minority Veterans will meet on December 12-14, 2017, at the Department of Veterans Affairs, 810 Vermont Avenue NW., Sonny Montgomery Conference Room 230, Washington, DC. On December 12th the session will begin at 8:00 a.m. and end at 5:00 p.m.; on December 13th the session will begin at 8:00 a.m. and end at 4:30 p.m.; and on December 14th, the session will begin at 8:00 a.m. and

adjourn at 1:00 p.m. This meeting is open to the public.

The purposes of the Committee are to: Advise the Secretary on the administration of VA benefits and services to minority Veterans; assess the needs of minority Veterans; and evaluate whether VA compensation, medical and rehabilitation services, outreach, and other programs are meeting those needs. The Committee makes recommendations to the Secretary regarding such activities.

On December 12, the Committee will receive briefings and updates from the Center for Minority Veterans, National Cemetery Administration, Suicide Prevention, Veterans Experience Office, and Veterans Benefits Administration. On December 13, the Committee will receive briefings and updates from the Board of Veterans Appeals, Office of Accountability & Whistleblower Protection, Choice Program/Community Care, Mental Health, Veterans Health Administration, Office of Rural Health, Million Veteran Program, and Women's Health Services. On December 14, the Committee will receive a briefing and update on Office of Diversity & Inclusion, Leadership Development Programs, Ex-Officios Update and hold an exit briefing with VBA, VHA and NCA. The Committee will receive public comments from 10:00 a.m. to 10:15 a.m. After the Leadership Exit Briefing, the Committee will continue to work on their report.

A sign-in sheet for those who want to give comments will be available at the meeting. Individuals who speak are invited to submit a 1-2 page summary of their comments at the time of the meeting for inclusion in the official meeting record. Members of the public may also submit written statements for the Committee's review to Ms. Juanita Mullen, Department of Veterans Affairs, Center for Minority Veterans (00M), 810 Vermont Avenue NW., Washington, DC 20420, or email at Juanita.Mullen@va.gov. Because the meeting will be in a Government building, anyone attending must be prepared to show a valid photo ID for checking in. Please allow 15 minutes before the meeting begins for this process. Any member of the public wishing to attend or seeking additional information should contact Ms. Mullen or Mr. Dennis May at (202) 461-6191 or by fax at (202) 273-7092.

Dated: November 20, 2017.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2017-25395 Filed 11-22-17; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Homeless Veterans, Notice of Meeting, Amended

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act that a meeting of the Advisory Committee on Homeless Veterans will be held on December 1, 2017. On December 1, the Committee will meet via conference call at 1-800-767-1750; Access Code: 53308# from 2:00 p.m.-5:00 p.m. (EST) and via Adobe Connect at <http://va-eerc-ees.adobeconnect.com/acvh/>. The meeting will be open to the public.

The purpose of the Committee is to provide the Secretary of Veterans Affairs with an on-going assessment of the effectiveness of the policies, organizational structures, and services of VA in assisting Veterans at-risk and experiencing homelessness. The Committee shall assemble and review information related to the needs of homeless Veterans and provide advice on the most appropriate means of providing assistance to that subset of the Veteran population. The Committee will make recommendations to the Secretary regarding such activities.

The agenda will include briefings from officials at VA regarding services for homeless Veterans and a discussion regarding VA budgetary support to homeless programs.

No time will be allocated at this meeting for receiving oral presentations from the public. Interested parties should provide written comments on issues affecting homeless Veterans for review by the Committee to Mr. Anthony Love, Designated Federal Officer, VHA Homeless Programs Office (10NC1), Department of Veterans Affairs, 811 Vermont Ave. NW., Washington, DC 20571 or via email at Anthony.Love@va.gov.

Members of the public who wish to attend may call-in, using the following number: 1-800-767-1750; Access Code: 53308# and via Adobe Connect at <http://va-eerc-ees.adobeconnect.com/acvh/>. Attendees who require reasonable accommodation should contact Charles Selby and Alexandra Logsdon of the Veterans Health Administration, Homeless Programs Office no later than November 17, 2017, at Charles.Selby@va.gov (202) 632-8593 or Alexandra.Logsdon@va.gov (202)-632-7146 and describe the type of accommodation needed.

Dated: November 20, 2017.

Jelessa M. Burney,

*Federal Advisory Committee Management
Officer.*

[FR Doc. 2017-25442 Filed 11-22-17; 8:45 am]

BILLING CODE 8320-01-P

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CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at <http://bookstore.gpo.gov/>.

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